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Security Council

Seventy-first year

Provisional

7707th meeting

Wednesday, 8 June 2016, 10 a.m.
New York

President:	Mr. Delattre	(France)
Members:	Angola	Mr. Lucas
	China	Mr. Li Yongsheng
	Egypt	Mr. Aboulatta
	Japan	Mr. Akahori
	Malaysia	Mr. Ibrahim
	New Zealand	Ms. Schwalger
	Russian Federation	Mr. Zagaynov
	Senegal	Mr. Ciss
	Spain	Ms. Pedros Carretero
	Ukraine	Mr. Yelchenko
	United Kingdom of Great Britain and Northern Ireland	Ms. Mulvein
	United States of America	Mr. Pressman
	Uruguay	Mr. Rosselli
	Venezuela (Bolivarian Republic of)	Mr. Méndez Graterol

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994

Report of the Office of Internal Oversight Services on the evaluation of the methods and work of the International Tribunal for the Former Yugoslavia (S/2016/441)

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Letter dated 17 May 2016 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2016/453)

Letter dated 17 May 2016 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council (S/2016/454)

The meeting was called to order at 10.05 a.m.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

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The President (*spoke in French*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite the following briefers to participate in this meeting: Judge Carmel Agius, President of the International Tribunal for the Former Yugoslavia; Judge Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals; and Mr. Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia and Prosecutor of the International Residual Mechanism for Criminal Tribunals.

The Security Council will now begin its consideration of the item on its agenda.

I wish to draw the attention of Council members to document S/2016/441, which contains the report of the Office of Internal Oversight Services on the evaluation of the methods and work of the International Tribunal for the Former Yugoslavia. I also wish to draw the attention of members to document S/2016/453, which contains the text of a letter dated 17 May 2016 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council. I furthermore wish to draw the attention of Council members to document S/2016/454, which contains the text of a letter dated 17 May 2016 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council.

I now give the floor to Judge Agius.

Judge Agius: I am deeply honoured to address the Security Council once again as President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), and to do so under the presidency of France. I would like to thank the President for the attention his country has given, and continues to give, to the matters that the Tribunal currently has pending before the Council.

In the Tribunal's completion strategy report (S/2016/454, annex), of 17 May 2016, members will find a comprehensive statement of activity covering the past six months. Further to that report, please allow me to give a brief overview of the current status of the Tribunal and measures undertaken to complete its mandate and ensure a smooth transition to the International Residual Mechanism for Criminal Tribunals.

We are reviewing the performance of the Tribunal's completion strategy at the best possible time with regard to results. I am pleased to report that, since my previous briefing to the Council (see S/PV.7574), in December 2015, every single case scheduled to be completed within the reporting period has been disposed of on time. Judgments were delivered in the appeal case of *Stanišić and Simatović* and in both the trials of

Radovan Karadžić and Vojislav Šešelj. In addition, on 14 December 2015, the judges of the Appeals Chamber delivered the final judgement in the largest appeal case ever adjudicated by the International Criminal Tribunal for Rwanda, namely, the *Nyiramasuhuko et al.* case, otherwise known as the *Butare* case. Following those judgments, only two trial cases, involving two individuals, and two appeal cases, involving eight individuals, are ongoing. One of the appeals, namely, the *Stanišić and Simatović* case, is scheduled to be finally disposed of on 30 June, as I promised to the Council in December.

In relation to the trial of Mr. Goran Hadžić, the Council will recall that, on 26 October 2015, the Trial Chamber found, by a majority decision, that the accused was fit to stand trial, but decided to stay the proceedings for an initial, renewable period of three months and to continue his provisional release. The prosecution appealed that decision and, on 4 March, the Appeals Chamber, presided over by me, granted the appeal in part. The Appeals Chamber invited, inter alia, the Trial Chamber to reassess as promptly as possible the accused's fitness to stand trial. On 24 March, with a public redacted version filed on 5 April, the Trial Chamber found, by a majority decision, that the accused was unfit to stand trial and stayed the proceedings indefinitely. I can share with members of the Security Council that I have been personally monitoring the developments in the *Hadžić* case throughout this entire period, mainly due to the advanced stage of the accused's illness. However, there have been developments since the completion strategy report was issued that I would like to update members on.

First, concerning the judges on the Bench, I reported to the Council in May that one judge had been transferred as of 1 May to the International Criminal Court to assume his functions as judge there, while remaining available at the ICTY for any pending matter on the *Hadžić* case. At the same time, the two other judges on the Bench indicated their readiness to explore cost-neutral solutions to their remuneration during the indefinite stay of the trial. Arrangements were in the process of being made with both judges when, on 19 May, the Prosecutor filed a motion for the formal termination of the proceedings in the *Hadžić* case. The defence has responded, and also agrees that the case should be terminated. I expect the Trial Chamber to issue a decision soon, hopefully before the end of this month.

Following the delivery of appeal judements in the *Stanišić and Župljanin* case and the likely termination of the *Hadžić* case, the terms of office of four judges will come to an end and the Tribunal will be left with a total of seven judges. In line with existing downsizing plans, staff members assigned to those cases will either depart the Tribunal following the completion of the cases or be reassigned to other cases.

With regard to the *Mladić* trial, I am very pleased with its progress and can confirm that the existing forecast of November 2017 remains unchanged. In relation to the *Prlić et al.* appeal, I again wish to draw to the Council's attention the fact that the case is the most voluminous appellate case in the history of the Tribunal, and will require not only time but adequate, uninterrupted resources. I can assure members that the Appeals Chamber, with myself as presiding judge, remains fully committed to completing the case by that date. I am pleased to note that the projected completion date of November 2017 has remained unchanged since it was first reported to the Council, in the November 2012 completion strategy report, and confirmed in all subsequent reports.

Let me now move on to contempt matters. As the Council is aware, following the arrests of Ratko Mladić and Goran Hadžić, in 2011, there are now no outstanding ICTY fugitives charged with serious violations of international humanitarian law. However, in a pending contempt case, there are currently three ICTY indictees whose arrest warrants are yet to be executed: Petar Jojić, Jovo Ostojić and Vjerica Radeta. I emphasize that the arrest warrants were issued over 16 months ago, on 19 January 2015. On 18 May 2016, the Representative of the Republic of Serbia informed the Trial Chamber of a first-instance ruling of the same date, issued by a single judge of the War Crimes Chamber of the High Court in Belgrade, which held that the conditions for surrendering and arresting the accused had not been met. This ruling was confirmed on 18 May by a chamber of three judges of the same Court, and the Republic of Serbia communicated both rulings to the Tribunal on 20 May.

Interference with the administration of justice strikes at the heart of what the Security Council and the Tribunal have, together, painstakingly and at great cost endeavoured to build since the birth of the Tribunal, and undermines the Tribunal's ability to carry out its work efficiently and fairly. Significantly, the single judge in Serbia who has now decided that the conditions for

transfer of the three indictees have not been met is the same judge who eight years ago in the *Petković* case decided exactly the opposite. Something is not right. Significantly also, and contrary to its own previous decisions, the High Court in Belgrade has now, to my enormous surprise, affirmed that Serbia has no duty to cooperate with the Tribunal on matters of contempt. This is very troubling and makes it imperative for me to express my serious concerns. I consider this development to be a grave step backwards from the status quo on cooperation with the Tribunal and an unacceptable disregard of the primacy of Tribunal law over domestic law of Serbia, mandated by the Security Council.

The Republic of Serbia has a duty to fully cooperate with the Tribunal in accordance with Security Council resolutions and the statute of the Tribunal. This means that Serbia has the duty to take any measures necessary to implement the provisions of both Security Council resolutions and the statute, including the obligation to comply with requests for assistance or orders issued by the Trial Chamber under article 29 of the Statute. Concluding these contempt proceedings is of the utmost importance to the Tribunal. I repeat that interference with the administration of justice undermines the integrity of our entire system. I remain hopeful that if there is good will, a solution can and will be found that will ensure compliance. On the Tribunal's part, I can assure Council members that everything is ready to ensure a speedy and fair trial once those three indictees are transferred to the Tribunal.

Turning to other matters, as Council members can see our trial and appeal activity is in the final stretch. Given the Tribunal's results in the last reporting period, any concerns about the Tribunal's commitment to concluding proceedings by the end of 2017 should be put to rest. At the same time, one serious hurdle remains — the matter of staff retention. As previously reported, this is an enormous challenge that cuts across all areas of the Tribunal's operations. While we are fully committed to the downsizing process, I must again stress the urgent need for the Tribunal to be able to retain our experienced and specialized staff members in order to complete our work on time. In our penultimate year of operation, experienced staff members continue to leave the Tribunal to take up more secure employment, and there is no doubt that the rate of attrition will increase as the end draws near.

The Tribunal is doing all it can to retain its staff, but without appropriate assistance and concrete measures it may face serious problems. The impact of staff attrition will be particularly damaging in the second half of the final year of the Tribunal. Past Presidents and I have called upon the Secretariat, the Security Council and the General Assembly to assist us in implementing strategies to retain staff. I again call upon the Council to assist us before we reach the point of no return. As President of the Tribunal, I have the ultimate responsibility of ensuring that all cases are concluded and that the Tribunal itself is closed on time. I also have the responsibility to ensure that our highly qualified administrative and judicial staff are working in motivating conditions that are also satisfactory at the contractual level. Affording the Tribunal appropriate predictability by providing staff with incentives, such as an end-of-service grant, will be a necessity if we are to maintain a high quality of staff and the capacity to conclude all our judicial work on time. This last chapter of the life of the Tribunal presents not normal but exceptional operational circumstances that call for or require exceptional remedies.

I take this opportunity to acknowledge the sterling work of my colleagues — all the judges of the Tribunal — as well as the immense contribution made by the Tribunal's staff in ensuring that cases are finished on time. In particular, I would like Security Council members to be aware of the critical role that staff members have played towards meeting the completion dates in the *Stanišić and Simatović*, *Butare*, *Karadžić* and *Šešelj* cases during the reporting period. I also want to thank staff members in the *Stanišić and Župljanin* appeal, over which I preside, who have been working literally around the clock to ensure that the 30 June 2016 target date is met. While this will not be the last hardworking team of the Tribunal, I wish to go on record, on behalf of my colleagues on the *Stanišić and Župljanin* bench, in praising the team's tireless efforts and personal sacrifices in the name of international justice. We have been very fortunate to work with such dedicated and loyal staff. For everyone working at the Tribunal, our work represents more than just a paid service; it is the fulfilment of an ideal and a contribution to justice and the promotion of peace and security in the former Yugoslavia.

As President of the Tribunal, I am determined to strengthen and consolidate the Tribunal's image, particularly throughout the former Yugoslavia. In order

to ensure that the Tribunal has a truly lasting impact, its work must be complemented by outreach and capacity-building efforts to increase local communities' access to information about its achievements, and to promote a greater understanding of the Tribunal's work and its contribution to peace and justice in the region. While primarily focusing on its core business, the Tribunal has also been diligently working on these matters. It is my intention to highlight and increase these efforts during the Tribunal's remaining life.

The Tribunal is engaged in a historic endeavour and must continue to be supported until the very end. We have come a long way in cementing the rule of international law and safeguarding the fundamental principles of peace and justice. Despite the challenges that the Tribunal is facing, we stand committed with the Security Council to ensure the efficient and orderly closure of this institution by the end of 2017.

Let me conclude by expressing, on behalf of all the judges and staff members of the ICTY, our sincere appreciation for the continuous support of the Governments represented on the Council. I would also like to thank the Secretariat for its invaluable advice, and last, but certainly not least, for the support received, especially from the Office of Legal Affairs.

Our joint efforts to bring to justice those who committed the most atrocious crimes in the former Yugoslavia send a powerful message to the world. Even though more than two decades have passed, and even though it has been a time-consuming and laborious process, we must and will continue to fight against the culture of impunity and for accountability and justice.

The President (*spoke in French*): I thank Judge Agius for his briefing.

I now give the floor to Judge Meron.

Judge Meron: It is an honour to appear before the Council once again to report on the work of the Mechanism for International Criminal Tribunals.

(*spoke in French*)

But first I wish to congratulate you, Sir, as Ambassador of France, on your country's accession to the presidency of the Security Council. As a permanent member of the Council, France plays a key role with respect to issues of international justice, and I convey my heartfelt wishes for success to the Security Council.

(*spoke in English*)

I also wish to express my gratitude to the Security Council's Informal Working Group on International Tribunals and to offer my particular thanks to Uruguay, which has assumed leadership of the Group. I very much look forward to working with His Excellency Ambassador Rosselli and Minister Patricia Benítez going forward.

I would be remiss if I did not once again express my sincere gratitude for the assistance provided to the Mechanism by the Office of Legal Affairs, and in particular by the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, Mr. Miguel de Serpa Soares, a tremendous ally for international justice; by the Assistant Secretary-General for Legal Affairs, Mr. Stephen Mathias; and by their whole team.

Finally, I wish to acknowledge both President Carmel Agius of the International Tribunal for the Former Yugoslavia (ICTY) and the new Prosecutor of the Mechanism, who is also the long-serving ICTY Prosecutor, Mr. Serge Brammertz. It is a pleasure to appear before the Council with both of them today.

I had the privilege of appearing before the Council six months ago as the Mechanism was undergoing the first review of its work by the Council. We appreciate the direction and guidance of the Council as to our work going forward as set forth in resolution 2256 (2015) and have paid attention to those matters, as my written report (S/2016/453, annex) demonstrates.

The past six months have seen a number of important developments at the Mechanism. On 15 December 2015, the ICTY Appeals Chamber delivered its judgement in the case of *Stanišić and Simatović*, ordering a retrial. Consistent with the transitional arrangements, the Mechanism is responsible for this retrial. I have assigned the case to a three-judge panel, and pre-trial proceedings are already well under way.

The month of March saw the delivery of two important trial judgements at the ICTY, in the cases of *Karadžić and Šešelj*. The pre-appeal proceedings in these cases are already under way in the Mechanism, where I have assigned the cases to two panels of judges in the Appeals Chamber.

During the pre-appeal proceedings in these cases, as in the pre-trial proceedings of *Stanišić and Simatović*, the full panel of judges is called upon to take part in addressing requests only if and as needed,

a practice that produces substantial reductions in the costs of judicial activities.

In addition to the three cases I have just mentioned, the Mechanism's judges continue to address a wide array of requests for various forms of relief, working on matters ranging from requests to provide assistance to national judicial authorities, to applications alleging contempt of court, and issuing nearly 200 decisions and orders during the reporting period. From the Republic of Korea to Portugal and from Madagascar to Uruguay, the Mechanism's judges have been active throughout the reporting period, working remotely from their homes and offices around the world and carrying out their judicial functions carefully, diligently and to the highest possible standards.

The reporting period saw a number of important advances in other areas of Mechanism responsibility as well. With the closure of the International Criminal Tribunal for Rwanda (ICTR) in December 2015, the Mechanism assumed responsibility for the remaining functions of the ICTR as of 1 January 2016. Once again, the transfer of these functions occurred seamlessly. Preparations are under way for the Mechanism to relocate to the new premises of the Arusha branch later this year as the construction project nears completion. We remain deeply appreciative of the support of the Government of the United Republic of Tanzania and the sustained assistance from various offices of the Secretariat in connection with the construction of the new, minimalist facilities designed to house the Arusha branch.

Important progress continues to be made in a number of other areas of the Mechanism, from the transfer of the Tribunals' records to the Mechanism and continued efforts to enhance access to the Tribunals' records, to the improvement of processes related to the provision of assistance to national jurisdictions. The legal and regulatory framework of the Mechanism has been strengthened and augmented during the reporting period, with a recent amendment to the rules of procedure and evidence and the issuance of a number of new practice directions and policies.

The Mechanism has also continued to benefit from regular audits by the Office of Internal Oversight Services, and I have been personally involved, and invested, in the ongoing study related to governance and institutional culture. I am confident that, as was the case with the review process, we will gain valuable insight into how the Mechanism can become even better as a result of this process. In the meantime, we continue to seek to maximize efficiencies and apply innovative new approaches to our work, such as by exploring ways to deploy cloud computing and telecommuting to facilitate the work of the judges carrying out their functions remotely.

As many members of the Council may recall, when last I appeared before the Council in December (see S/PV.7574), the then-Prosecutor of the Mechanism, Mr. Hassan Bubacar Jallow, reported that one of the remaining fugitives indicted by the ICTR, Mr. Ladislas Ntaganzwa, had been arrested. That was a significant achievement, not just for the Mechanism, but for international justice and for all of us who seek to ensure accountability. In March, and consistent with the referral of his case to the Republic of Rwanda for trial by the ICTR, Mr. Ntaganzwa was transferred to Rwanda. In accordance with its statute, the Mechanism is already monitoring the proceedings in Rwanda with regard to Mr. Ntaganzwa, thanks to the assistance of monitors from the Kenyan section of the International Commission of Jurists. The monitoring of the other cases referred for trial to Rwanda and France is ongoing.

With eight fugitives remaining — of whom three are to be tried by the Mechanism — the Mechanism's fugitive-tracking activities continue under the able leadership of the Mechanism's new Prosecutor, Mr. Serge Brammertz. However, we cannot do this alone. The sustained support and involvement of Member States in relation to those tracking activities is essential if we are to ensure that the remaining fugitives are apprehended and thereby carry out one of the essential functions entrusted to us.

The Mechanism is also reliant upon and deeply grateful to those States that have agreed to enforce sentences imposed by the ICTR, the ICTY or the Mechanism itself. I am very pleased to announce that a new agreement on the enforcement of sentences was recently concluded with the Republic of Mali. That new agreement reflects best practices in the field of detention, including the United Nations Standard Minimum Rules for the Treatment of Prisoners, adopted by the General Assembly last December (resolution 70/175). I sincerely hope that as we move ahead, additional States will step forward and enter into such enforcement agreements, thereby helping to expand the Mechanism's critically important enforcement capacity. In the meantime, I wish to acknowledge the important cooperation

and support received from the Government of the Republic of Senegal as the final steps are being taken to commence enforcement of sentences in Senegal.

The Mechanism continues to explore options to address the increasingly urgent situation of the small number of individuals in Arusha who have been acquitted by the ICTR or who have completed their sentences imposed by that Tribunal. However, despite our best efforts, we are, as the Council is well aware, dependent on the international community to help resolve this long-standing humanitarian challenge. Pending such resolution, the Mechanism has carefully reviewed the broad array of support that has been provided by the ICTR to those persons in Arusha, and is implementing a more limited, cost-effective approach.

As we move ahead into the next two-year period of our operations — one that will see the historic closure of the ICTY and the transfer of all remaining functions to the Mechanism — the Council has my pledge that we will continue to encapsulate and promulgate best practices, to innovate wherever possible and to seek ever greater efficiencies, while never forgetting our fundamental role as a court or the terrible atrocities that led to our establishment. In doing so, I am confident that the Mechanism will not only fulfil its responsibilities to its predecessor tribunals, to affected communities in Rwanda and the former Yugoslavia, to courageous victims and witnesses and to the Council, and do so to the highest possible standards, but that it will also serve as an emblem of what an international court and a United Nations institution can and should be — an embodiment of the international community's profound commitment to justice and the rule of law.

The President (*spoke in French*): I thank Judge Meron for his briefing.

I now give the floor to Mr. Brammertz.

Mr. Brammertz: I thank Council members for the opportunity to again address them on the work of the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals.

I will first address the work of the Office of the Prosecutor of the ICTY.

In this reporting period, judgements were issued in three cases, bringing the ICTY closer to completing its mandate at the end of next year. Last December, the ICTY Appeals Chamber granted my Office's appeal in the *Stanišić* and *Simatović* case, revoked the Trial Chamber's judgement and ordered a retrial. In March this year, the ICTY Trial Chamber unanimously convicted Radovan Karadžić of genocide, crimes against humanity and war crimes. He was sentenced to 40 years of imprisonment. Also in March this year, the ICTY Trial Chamber by majority acquitted Vojislav Šešelj of the charges against him. The Mechanism has appealed the acquittal. Further proceedings in all three of those cases will be conducted by the Mechanism, in accordance with resolution 1966 (2010) and the transitional arrangements.

My Office looks forward to the delivery of the appeal judgment in the *Stanišić and Župljanin* case at the end of this month. In relation to the *Prlić* appeal, we are continuing our preparations for the appeal hearing, which is anticipated next spring. We also continued our work in our two final trials, those of Ratko Mladić and Goran Hadžić. In the *Mladić* trial, the defence is in the final phase of presenting its evidence. It is anticipated that the final defence witness will be heard this month, and that closing arguments by both parties will be presented this fall. In the *Hadžić* trial, three weeks ago my Office filed a motion for termination of the proceedings. At this time, we see no alternative but to take that step.

In this final phase of the Tribunal's work, State cooperation remains essential to enabling the completion of our mandate. That includes my Office's access to documents, archives and witnesses in Bosnia and Herzegovina, Croatia and Serbia. My Office regrets that Serbia has turned away from the path of full cooperation with the Tribunal. As the President reported this morning, for a year and a half Serbia has failed to execute the Tribunal's arrest warrants and transfer three indictees to the Tribunal's custody. It should be noted that in the past, Serbia executed arrest warrants in similar contempt cases without problem or significant delay.

Unfortunately, that is unfortunately not the only reason for concern. It is troubling that Serbia has not yet appointed a new Chief War Crimes Prosecutor, despite having had at least a year to do so. It is difficult to understand why that crucial position remains vacant. And Serbia has not yet executed the sentence imposed by the Bosnian State Court in the *Djukić* case, which is widely recognized as an important test of Serbia's commitment to regional cooperation.

While my Office welcomed before the Council the adoption of National Strategy for the Prosecution of War Crimes for the Period 2016-2020, the overall situation raises legitimate doubts that Serbia has a real commitment to the goal of impartial accountability for war crimes. The continued glorification of convicted war criminals in that country compounds those doubts. It is now up to Serbia to demonstrate that it will honour its pledges to cooperate with the Tribunal, support accountability for war crimes and promote effective regional cooperation.

In regard to the Category II cases transferred by my Office to national prosecutors in Bosnia and Herzegovina, prosecutorial decisions have been taken in all but one case. Indictments have been confirmed and trial proceedings are now under way. For some Category II cases, Bosnian prosecutors have sought cooperation from Croatia. A number of delays and miscommunications have, however, prevented meaningful progress so far. My Office calls upon the Croatian Government to review its policy in relation to regional cooperation and to facilitate the processing of war crimes cases in the region. We will continue to liaise with our counterparts and to monitor developments.

As my Office has reported, in recent years there have been many positive developments in national war crimes justice and regional cooperation. Unfortunately, the political situation throughout the region is moving in the opposite direction. Too many politicians and public figures are denying well-established truths, inflaming ethnic tensions and repeating nationalistic slogans of the past. What would have been difficult to imagine just a few years ago is sadly commonplace today. As a result, the positive trend in regional cooperation in war crimes justice appears to be reversing.

Turning to the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, this reporting period marked the beginning of trial and appeal activities in The Hague. As discussed in more detail in my written report (S/2016/453, annex II), appeal proceedings have commenced in two Mechanism cases, *Karadžić* and *Šešelj*, and pretrial proceedings have commenced in the *Stanišić and Simatović* case.

Consistent with the Security Council's directions, the Mechanism's Office of the Prosecutor has utilized double-hatting and roster arrangements in order to ensure that the transition of responsibilities from the ICTY is smooth and cost-efficient. While respecting the different mandates of the two institutions, the one-office approach that has been put in place now allows staff to be flexibly deployed across both institutions, without the need to conduct time-consuming recruitment exercises. These measures have permitted the Mechanism's Office of the Prosecutor to carry out its ad hoc activities while remaining a small, temporary and efficient structure.

With regard to activities in Arusha, my Office has continued to monitor the cases referred and transferred to the national courts of France and Rwanda. In one case referred to Rwanda, the trial judgement was delivered in December 2015, convicting the accused and sentencing him to life imprisonment. My Office commends the Rwandan National Public Prosecution Authority for its work on this case. We now look forward to the expeditious completion of the appeal, as well as the trials in the two other referred cases. With respect to the two cases referred to France, I received updates on the status of those cases during my mission to Paris a few weeks ago. My Office will continue to liaise with French authorities and encourage the expeditious completion of those cases.

The Mechanism's Office of the Prosecutor is also firmly focused on locating and securing the arrests of the remaining eight fugitives indicted by the International Criminal Tribunal for Rwanda (ICTR), including the arrest warrants against Kabuga, Mpiranya and Bizimana. Beginning in March, we reviewed our tracking efforts and strategy, as part of which we redeployed resources from within existing capacity to provide further support. We also identified new avenues to pursue. My Office notes that State cooperation and the Council's support remain essential to locating and arresting fugitives.

The truth of what happened during the Rwandan genocide has been repeatedly established in the ICTR's judgments. Yet, today, genocide denial continues. To safeguard future generations, it is essential that there be education about the dangers of genocide ideology and discrimination. My Office urges all States to actively promote the truth and to stand against revisionism in all its forms.

In conclusion, the transition of responsibilities from the ICTY to the Mechanism continues, as foreseen in Security Council resolutions. My Office will also continue, within existing resources, to monitor and support national courts prosecuting war crimes

committed in the former Yugoslavia and Rwanda. In accordance with the completion strategies, greater accountability now depends on the ability of national criminal courts to continue the work of the ICTY and ICTR.

Finally, to support national justice efforts, it is important that we disseminate our experiences and lessons learned in the prosecution of these crimes. In that regard, my Office hopes that our publication on prosecuting conflict-related sexual violence, which was launched yesterday, is a helpful tool.

The President (*spoke in French*): I thank Mr. Brammertz for his briefing.

I now give the floor to members of the Council.

Mr. Rosselli (Uruguay) (*spoke in Spanish*): I wish to express appreciation for the comprehensive briefings on the International Tribunal for the Former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals delivered by President Carmel Agius, President President Theodor Meron and Prosecutor Serge Brammertz. I also take this opportunity to congratulate Judge Theodor Meron on the renewal of his mandate as President of the Residual Mechanism and Mr. Brammertz on his appointment as Prosecutor of the Mechanism.

As current Chair of the Informal Working Group on International Tribunals, I congratulate my predecessor, Ambassador Cristián Barros Melet, and his entire team for their excellent work leadingh the Informal Working Group over the past two years. I also appreciate the ongoing support of the Office of Legal Affairs and the United Nations Secretariat in fulfilling this task.

I wish to express Uruguay's firm commitment to the work of the International Criminal Tribunal for the Former Yugoslavia and the Residual Mechanism. My country recognizes their important contribution to international justice in situations of crimes against humanity, war crimes and crimes of genocide, as well as their contribution to national reconciliation in the countries concerned. We note with satisfaction the progress achieved in the judicial activities of the International Tribunal for the Former Yugoslavia, and we welcome the forecast that these activities will be concluded by the end of 2017.

We welcome the fact that since the arrest of Ratko Mladić and Goran Hadzić in 2011, no other fugitives have been accused by the Tribunal of grave violations of international humanitarian law. We take note of the pending challenges of the International Tribunal for the Former Yugoslavia in carrying out their completion strategies and the difficulties encountered along the way. The problem of staff retention, especially of middle- and high-level officials, was clearly described by President Agius, and his call for attention should be heard. Impediments to effective cooperation have also been highlighted by the President and Prosecutor of the International Tribunal for the Former Yugoslavia.

Political obstacles, technical difficulties, the lack of a regional legal framework are some of the reasons behind the situation. Faced with this, we must immediately open dialogue to find possible solutions, in particular in relation to the lack of information on arrest warrants, as noted in the report (S/2016/454, annex I). We also note Prosecutor Brammertz's statement concerning the lack of information on the disappeared, which represents for their families one of the main problems to be solved.

Uruguay recognizes the importance of making progress in identifying human remains and understands that it is not just an obligation to the victims' families, but that it also serves as a vital step towards national reconciliation. This conviction is based on my own country's recent experience. We went through the processes of truth, justice, recognition and reparations in order to move along the path to national reconciliation.

In regard to the Residual Mechanism, Uruguay is pleased to note that the forecast timeline of its legal activities are the same as those provided in the previous report of November 2015 (S/2015/883, annex I) with a few provisos in the latest report (S/2016/453, annex I). That means that, without prejudice to the Tribunal's particular manner of operating or the unforeseen or extraordinary events that may arise to affect it, there is a timeline that remains in effect, which we interpret to be a positive sign.

We recognize and value the important work of the Mechanism in supporting and protecting witnesses, in sentence enforcement and in monitoring the cases that have been forwarded by the ICTY and the ICTR to national jurisdictions. We take note of the priority that the Mechanism is giving to the search for and prosecution of the eight persons indicted by the ICTR who remain fugitives, as well as the importance of the cooperation of States to achieving those ends and to enforcing sentences, to having access to documents and

files and to reaching witnesses. We therefore take note of the appeal to the international community to reflect on measures that could be taken to encourage States to cooperate.

We would make a similar appeal with respect to the problems posed by the reintegration of released or acquitted persons and to the dialogue the Mechanism is undertaking with the States that have indicated their willingness to receive one or more of those persons. In that regard, we welcome and especially appreciate the efforts and the arrangements made by the President of the Mechanism.

Finally, we would like to express our full readiness to consider any new and updated proposal that the authorities of the International Criminal Tribunal for the Former Yugoslavia and the Mechanism consider to be of interest in the search for a solution to those and other problems. As Chair of the Informal Working Group on International Criminal Tribunals, we are committed to making every effort to achieve that end.

Mr. Ciss (Senegal) (*spoke in French*): My delegation welcomes today's briefing on the International Criminal Tribunals, organized by the French presidency of the Security Council.

I would like to thank Judge Carmel Agius, President of the International Tribunal for the Former Yugoslavia (ICTY); Judge Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals; and Mr. Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia and Prosecutor of the International Residual Mechanism for Criminal Tribunals. I especially the judges for their respective reports (S/2016/453, annex and S/2016/454, annex) and for their comprehensive briefings on the work of the Tribunals and on their completion strategies. I also wish to congratulate Ambassador Elbio Rosselli, Permanent Representative of Uruguay, and his team for their outstanding work at the helm of the Informal Working Group on International Tribunals.

In order to adjudicate the most serious crimes committed in Rwanda and the Balkans, the Security Council established the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia. The two courts, guided by the principles of fairness, impartiality and independence, have upheld respect for the rule of law, supported capacity-building at the national level, and made contributions to the processes of justice and reconciliation that have been essential for the achievement of peace.

We are pleased at the ICTY's fundamental role in strengthening the rule of law and in promoting long-term stability and reconciliation in the Western Balkans. In addition, its jurisprudence has contributed to the development of international criminal law in such areas as individual criminal responsibility and sexual violence. Similarly, we welcome the crucial work of the ICTR, which has helped to bring justice to the victims of the genocide in Rwanda by having the main perpetrators of these atrocities answer for their actions.

The substantial contributions of both Tribunals to the development of international criminal justice, the assignment of responsibility and the restoration of the rule of law in the former Yugoslavia and Rwanda are beyond a shadow of a doubt. That is also the case with respect to the Tribunals' strong commitment to fighting impunity for all those responsible for the serious violations of international humanitarian law that occurred in those two genocides. The International Mechanism, called to perform the residual functions of the Tribunals when it was established by resolution 1966 (2010), inherited that commitment. This unique entity, which was intended to be small and efficient and with a temporary mission, has also given us many reasons to be satisfied.

We acknowledge the crucial role played by these institutions and the work of the authorities who lead them. We reiterate our support for them as we call for greater efficiency, performance and streamlining in their activities. While we are aware of its heavy workload and significant efforts made to reduce delay, we nevertheless encourage the ICTY to take the steps needed to complete its work within the agreed time. We therefore share Prosecutor Brammertz's concern about staff attrition and congratulate him on the steps taken by his Office to strengthen the capacity of judicial institutions. I am thinking in particular of the training of prosecutors for national jurisdictions.

We reaffirm that the International Criminal Tribunals have played a historic role in the fight against impunity. We are convinced that there can be no lasting peace without justice, which is why the case of the remaining fugitives is of particular concern. We therefore call on States, particularly those in which the

fugitives might be found, to intensify their efforts to arrest them so that they can be prosecuted. In addition, the issue of relocating the eight persons who have been acquitted and the three others who have been released after serving their sentences and who remain in Arusha is challenging, and therefore deserves our full attention.

I would like to conclude by saying a few words on the issue of the enforcement of sentences, which was raised by Judge Meron. Senegal has recovered control of eight jail cells refurbished by the ICTR in a facility that meets international prison standards, and we are committed to making them fully operational as soon as possible.

Mr. Ibrahim (Malaysia): I thank the President for organizing today's important debate.

At the outset, I would like to congratulate Judge Meron and Mr. Brammertz for their recent appointments as the President and Prosecutor of the International Residual Mechanism for Criminal Tribunals, respectively. My delegation is grateful for the comprehensive briefings by the Presidents of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals as well by the Prosecutor from both institutions.

Malaysia welcomes the significant progress made by the International Criminal Tribunals during the reporting period. In particular, we acknowledge the closure of the International Criminal Tribunal for Rwanda (ICTR) last December, after the Appeals Chamber delivered its judgement in the *Nyiramasuhuko et al. ("Butare")* case. We are also encouraged by the smooth transfer of the ICTR's functions to the Residual Mechanism.

The closure of the ICTR after two decades of unyielding and dedicated efforts by the international community to ensure justice for the victims of the genocide in Rwanda constitutes a lasting legacy for international criminal justice and the global fight against impunity. We applaud the professionalism and commitment by all those who were involved in the successful conclusions and transitions of the ICTR. With the transfer of the ICTR's remaining cases and functions to the Residual Mechanism, we urge Member States to continue to support the Mechanism, especially in addressing outstanding challenges, among other things. Cooperation by the international community is crucial to tracking the eight remaining fugitives indited by the ICTR, to enforcing sentences and to relocating those who have served their sentences or been acquitted by the Tribunal.

Turning to the ICTY, we welcome the delivery of judgments in the *Karadžić* and *Šešelj* cases last March. In the case *Prosecutor v. Goran Hadžić*, we take note of the briefing by the ICTY President and look forward to reasonable, just and practical conclusions by the Chamber in view of the inability of the Tribunal to continue with the proceedings due to the health of the accused. On the whole, Malaysia is reassured by the commitment expressed by the President of the ICTY that the judicial work of the Tribunal remains on track to be completed by November 2017. We also acknowledge the intensified efforts by the Tribunal to implement its completion strategy within the stipulated time frame. That includes the implementation of double hatting in one of its approaches to integrate the staff and resources of the ICTY and the Residual Mechanism.

With regard to the continuing delay by Serbia to transfer three indictees to the ICTY for contempt charges, Malaysia urges full and immediate cooperation with the Tribunal, as obligated under the statute of the Tribunal. Prolonging the matter, especially against the backdrop of increasingly revisionist sentiment and the politicization of the proceedings in the region, would send the wrong signal to the international community on its commitment to justice and the rule of law.

On a similar note, we call on the relevant Member States of the former Yugoslavia to intensify the pace and effectiveness of war crimes prosecutions where the national authorities for cases being referred to national jurisdictions.

Malaysia also takes note of the evaluation report (S/2016/441) by the Office of Internal Oversight Services on matters and work pertaining to the ICTY. We urge the ICTY to seriously consider the recommendations in the report. However, the exercise should not divert resources away from the Tribunal's main mandate to conclude its remaining proceedings by the end of next year, particularly at this crucial stage.

As the first war crimes court created by the United Nations and the first international war tribunal since the Nuremberg Tribunal and the International Military Tribunal for the Far East, the ICTY has laid the foundations for international criminal justice and changed the landscape of international humanitarian law. We therefore believe that the Tribunal should continue to share its experiences and best practices

with the international community. In that regard, Malaysia welcomes the book launched by the Office of the Deputy Secretary last week focusing on the prosecutions of conflict-related sexual violence at the ICTY.

In conclusion, I wish to reiterate Malaysia's full support for the international criminal tribunals in ensuring accountability for the perpetrators of genocide, war crimes and crimes against humanity in the former Yugoslavia and Rwanda. Over 20 years have passed since the atrocities were committed, but our commitment to justice must not waver. We owe it to the victims and their loved ones to provide closure, justice and accountability for the atrocities committed against them. Their hopes and prayers must never be left unanswered.

Mr. Aboulatta (Egypt) (*spoke in Arabic*): At the outset, I would like to welcome Judge Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals, and Judge Carmel Agius, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY). I would also like to welcome Mr. Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia (ICTY). I would also like to thank them for all their efforts and for their comprehensive briefings.

The Security Council, when it established the International Criminal Tribunal for Rwanda (ICTR) and the ICTY, wished to underline the importance of the rule of law, to show that the international community was serious about countering war crimes and crimes against humanity, to ensure accountability for the perpetrators of such crimes and to underline the importance of fighting impunity at the international level.

The two Tribunals have done an excellent job in completing their tasks of tracking the accused, protecting witnesses and ensuring compensation for the victims, as well as fair trials. The ICTR concluded its work at the end of last year, and it is expected that the ICTY will also conclude its work at the end of next year. Therefore, the Residual Mechanism, with its two branches in The Hague and Arusha, would receive the pending cases from those two Tribunals. In that context, we would like to underscore our appreciation and satisfaction with all the efforts undertaken to ensure a smooth transition.

The international community must realize that accountability is not just a duty to respect the rights of the victims and hold criminals accountable for their crimes. Those two elements are extremely important, but it should also be a preventive mechanism to ensure that deplorable crimes against humanity are not repeated. It should be a message of warning to all those who might believe that human life and dignity can be taken lightly. Such individuals should know that they will never be safe from punishment and that such crimes will not be subject to any statute of limitations and will not be tolerated.

Despite all that, many horrific crimes continue to take place throughout the world. Our work is therefore far from finished. The international community must address with attention, impartiality and justice all those horrors without regard for their narrow political interests, because respect for humanity is above any other priority. We must send a single unambiguous message with regard to grave violations of international humanitarian law that tells perpetrators that their deeds will not go unpunished and that the rights the victims will be protected.

Achieving the objectives for which the two Tribunals were established depends on the Council's support and the full cooperation of all Members of the United Nations, including in tracking the three fugitives from the ICTR, who have now become the responsibility of the Residual Mechanism. The international community should continue to track them until they are brought to justice. Also, there is the important issue of the relocation of those who have either been acquitted or whose sentences have been served. In that context, I would like to underline that Egypt fully supports the work of the Residual Mechanism and highlights the importance of the optimum utilization of financial and administrative resources to facilitate its work in the best possible manner.

Mr. Méndez Graterol (Bolivarian Republic of Venezuela) (*spoke in Spanish*): At the outset, we welcome the presence and participation of Judge Carmel Agius, Judge Theodor Meron and Prosecutor Serge Brammertz. We thank them for the valuable briefing they have provided in compliance with resolutions 1534 (2004) and 1966 (2010).

The Bolivarian Republic of Venezuela supports the work of the International Tribunal for the Former Yugoslavia and the International Residual Mechanism

for Criminal Tribunals in their efforts to bring to justice the perpetrators of genocide, crimes against humanity and war crimes committed during the conflicts that affected the territories of the former Yugoslavia and whose violations of international humanitarian law and international human rights led to many victims. The work conducted by the tribunals reaffirms the commitment of the international community to combat impunity with respect to war crimes and crimes against humanity in order to ensure that such acts are never repeated. Such efforts contribute to strengthening the rule of law at the international level, particularly the international justice system.

With respect to the process of closing the International Tribunal for the Former Yugoslavia at the end of 2017, we support the progress made by that body in the past six months in handling the cases under its jurisdiction. We therefore encourage the Tribunal to continue its work in compliance with the timetable set for completing its mandate.

It is noteworthy that cooperation on the part of the States is essential in ensuring compliance with the goals set forth in resolution 1966 (2010).

These judicial organs have played a positive role in expressing the will of the international community to ensure justice on behalf of the victims of the heinous crimes committed during the armed conflict that affected the territories of the former Yugoslavia by way of prosecuting those responsible for such regrettable acts.

This year marks the twenty-third anniversary of the establishment of the International Tribunal for the former Yugoslavia. Its significant contribution to the rule of law, international justice and the fight against impunity is important in the regional reconciliation process. We urge those States to continue efforts to strengthen the rule of law at the international level with a focus on an impartial, transparent and independent judiciary.

In that context, we welcome the International Tribunal for the Former Yugoslavia's conclusion of proceedings against 151 of the 161 indictees, including two first-instance trials and two appeals still pending. The results achieved clearly demonstrated the efficiency and transparency of its working methods.

With respect to the work of the International Tribunal for the Former Yugoslavia, we welcome the judgment against Radovan Karadžić for genocide, crimes against humanity and violations of the laws or customs of war, by which he was sentenced to 40 years imprisonment. It is indeed a landmark decision in the fight against impunity and the application of justice in accordance with due process. Similarly, on 31 March, the Tribunal acquitted Vojislav Šešelj, President of the Serbian Radical Party and former member of the Assembly of the Republic of Serbia, of all charges against him. The ICTY Trial Chamber and the Prosecutor's Office appealed the decision. In both cases the appeal procedures fall under the jurisdiction of the Residual Mechanism to diligently and effectively decide the issues, while maintaining the principles of due process and judicial impartiality.

In reaffirming the independence and autonomy of the international tribunals, we believe that the politicization of the judicial process compromises the transparency and objectivity of their decisions. The prosecution of all of those, without exception, who are responsible for committing crimes in violation of human rights and international humanitarian law is necessary to strengthen the credibility of the international tribunals.

We share the concerns expressed by the President of the International Tribunal for the Former Yugoslavia about staffing. We reiterate that the continued employment of its officers is essential for the Tribunal to complete its mandate within the set time limit in the context of the application of justice.

However, in terms of progress in the cases under the Tribunal's jurisdiction, we note some procedural challenges related primarily to gaps in critical personnel in achieving the mandate of that body. We hope that such difficulties will be overcome in order not to impede the conclusion of the ongoing trials within the set timeline.

Moreover, we note the report of the Office of Internal Oversight Services (S/2016/441), which conducted an evaluation of the methods and work of the International Tribunal for the former Yugoslavia in implementing the completion strategy in accordance with resolution 2256 (2015), with a view to the Tribunal's implementation of measures to achieve its objectives that will neither divert resources nor weaken its functions. All of that is necessary to facilitate the fulfilment of its mandate in the smooth transfer of files and contempt cases, and the Residual Mechanism's protection of victims and witnesses.

We welcome the appointment of Mr. Theodor Meron as President of the International Residual Mechanism for Criminal Tribunals, and we commend the work of the Mechanism to date, including the development of a legal and regulatory framework, procedures and work practices that conform to the mandate of the Mechanism and are based on lessons learned and best practices of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and other tribunals.

Finally, we highlight the contribution of the International Tribunal for the Former Yugoslavia in strengthening international criminal justice and support the prompt and efficient completion of its work in accordance with the agreed timeline and budget to facilitate closure and complete the transition to the Residual Mechanism — all in order to promote the rule of law and end impunity in the fight against genocide, war crimes and crimes against humanity, thereby strengthening international peace and security.

Mr. Li Yongsheng (China) (*spoke in Chinese*): At the outset, I wish to thank President Agius and President Meron for their briefings on the work of the International Tribunal for the Former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals.

In the past six months, the ICTY continued to make progress in its work, delivering judgments in the *Radovan Karadžić* and *Vojislav Šešelj* cases. It also delivered a final judgment in the case *Prosecutor v. Jovica Stanišić and Franko Simatović*. The Appeals Chamber delivered the final judgment in the appeal of the *Nyiramasuhuko et al.* case ("*Butare*" case). China appreciates the above work and hopes that, under the leadership of President Agius, the Tribunal will continue to improve efficiency and accelerate its work with a view to completing its work by the end of 2017.

Pursuant to resolution 2256 (2015), the Office of Internal Oversight Services (OIOS) conducted an evaluation on the methods and work of the ICTY completion process and provided a number of valuable recommendations. China thanks OIOS for its work and believes that, based on its report (S/2016/441) and the aim of accommodating the specifics of the Tribunal, it is imperative that the ICTY take measures to improve its work based on the report's recommendations. China hopes that any progress achieved in that regard will be reflected in the Tribunal's next report.

With respect to the issues that have arisen in the context of the specific cooperation between the ICTY and Serbia, it is China's hope that the two sides will continue consultations with a view to resolving those issues.

China has noted the various activities, including judicial activities, carried out by the Residual Mechanism in the reporting period and views positively the measures undertaken by the Mechanism, including the "one-office" approach and double-hatting arrangements. It is hoped that the Mechanism will draw on best practices and lessons learned of other international tribunals, including the International Criminal Tribunal for Rwanda and the ICTY to continue improving efficiency and reducing costs, so as to live up to the Council's expectation for the Mechanism to be small, temporary and efficient.

The ICTY and the Residual Mechanism represent an important effort on the part of the international community in the fight against impunity, demonstrating its firm determination to support rule of law at the international level. China will continue to support the two institutions in the hope that they will further strengthen and improve their work with a view to meeting the expectations of the international community.

In conclusion, I wish to take this opportunity to thank Uruguay, as Chair of the Informal Working Group on International Tribunals, and the Office of Legal Affairs for their work.

Mrs. Schwalger (New Zealand): I, too, thank the Presidents and Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals for their briefings and reiterate New Zealand's strong support for their work.

As noted by colleagues this morning already, the past few months have seen several important developments regarding the completion of the work of the Tribunals. They include the conviction and sentencing of Radovan Karadžić and the arrest of International Criminal Tribunal for Rwanda (ICTR) fugitive Ladislas Ntaganzwa in the Democratic Republic of Congo and his imminent transfer to Rwanda for trial. We hope further progress can be made in apprehending those ICTR fugitives who remain at large, and encourage States to continue their cooperation with the Mechanism in that regard.

The ICTY will be able to achieve its completion strategy only if all the relevant States comply with their obligations under resolution 827 (1993). We are aware that Serbia faces some challenges, but we encourage the Government to maintain its positive record of cooperation with the Tribunal.

The Office of Internal Oversight Services report (S/2016/441) evaluating the implementation of the ICTY completion strategy between 2010 and 2015 paints a mixed picture of the Tribunal's performance. In response, the ICTY questioned the application of a results-based management approach to judicial institutions and the impact it could have on judicial independence and the right to a fair trial.

New Zealand has some sympathy with the ICTY's concerns. We accept that the Tribunal has room for improvement in some aspects, and that some administrative and other problems could have been avoided. However, we believe that the central priority for ICTY should remain the completion of its work by the end of 2017. At this late stage in the Tribunal's life cycle, a pragmatic approach to addressing the deficiencies identified by the Office is required. It is more important that lessons learned from the report are gathered and that they feed into the work of the Mechanism and future tribunals.

We hear the Tribunal's call for future reviews to be given sufficient time and to have a sharper focus on substantive issues. We also note its view on the need to take into account the unique nature of the institution, its judicial mandate and factors outside its control. The Tribunal's suggestion that a more productive approach would be to develop benchmarks for assessing the efficiency and effectiveness of international judicial institutions is worthy of consideration.

Also worthy of consideration is its suggestion to undertake a serious analysis of the factors affecting judicial efficiency. Agreement on the best approach will be needed prior to the evaluation of the Mechanism in two years' time. The Mechanism's first review has been completed. Overall, we believe it should be commended for its work to date. It is clearly mindful of the Security Council's vision for it as a small, temporary and efficient structure whose functions and size will diminish over time. We are pleased at the Mechanism's efforts to maximize its effectiveness and efficiency by drawing on best practices and lessons learned from the ICTR, the ICTY and other tribunals. Efforts to pursue new processes and working methods and maintain flexibility in staff assignments, including through the effective use of remote working practices, deserve acknowledgement.

There are, however, ongoing challenges. The Council's resolution 2256 (2015), adopted in December, encouraged the Mechanism and the Government of Rwanda to collaborate on matters related to the legacy of the ICTR, including in respect of access to archives. We hope there will be further progress on resolving the archives issue. We also note the ongoing question of how and where the 14 Rwandans in the safe house in Arusha should be relocated. We would encourage the Mechanism to develop a process for risk-based assessments in that regard. Such a process could be used for other situations, including in relation to those finishing their sentences outside of Rwanda.

It is important that the Council maintain its support for the ICTY through to the end of its mandate and that it support the Mechanism. Issues such as the need for an incentive structure must be addressed to avoid delays due to staff attrition later on. But more broadly, there is a need to have a serious conversation about how to practically, sustainably and cost-efficiently ensure accountability for serious international crimes. Part of that conversation should be about how the Council can do better in ensuring practical support to the machinery for international justice, and thus assist in expediting that work. In those conversations, we need to face up to the reality that real justice has real costs. It always has.

Mr. Zagaynov (Russian Federation) (*spoke in Russian*): We have studied the report of the President Carmel Agius of the International Criminal Tribunal for the Former Yugoslavia (ICTY) (S/2016/454, annex), and the report of President Theodor Meron of the International Residual Mechanism for Criminal Tribunals with regard to the state of affairs of the bodies they head over the past six months.

It is encouraging that the ICTY report contains no direct information on further lags in judicial proceedings. Nevertheless, we would like to recall that resolutions 2193 (2014) and 2256 (2015) called upon the Tribunal not only to not delay proceedings but also to take look at accelerating the cases under its jurisdiction. It is unfortunate that has not happened yet. Furthermore, the Tribunal is duly resourced, including with staffing and financial resources, so as to expediently conclude its work.

Against that backdrop, we are worried about the report's hinting at possible further hindrances in the work of the ICTY. We think that the case of *Goran Hadžić* could have long since been terminated for humanitarian reasons, which in this case are irrefutable. Doing so would optimize the work of the ICTY and would allow for resources to be reallocated to other cases. That way, there would be no reason to talk about the impossibility of accurate forecasting of the dates for terminating this case.

With regard to the contempt case initiated by the Tribunal in the framework of the concluded proceedings against Mr. Šešelj, this type of case is not part of the Tribunal's fundamental functions, nor is it decreed in the ICTY charter approved by Security Council resolutions. The jurisdiction in that regard has been instated by the Tribunal through its rules of procedure. In that regard, the ongoing operations of the ICTY due to what the report terms contempt cases are inadmissible by definition. There is a need to find other solutions.

In implementation of resolution 2256 (2015), the Office of Internal Oversight Services (OIOS) audited the work of the ICTY regarding implementation of the completion strategy. The conclusions of the inspectors are dismal. As noted in paragraph 54, the Tribunal failed to focus its work on a results-based strategy and to set clear goals for itself regarding time frames. On the whole, we agree with the recommendations of the OIOS auditors. The Office identified clear issues, which we have raised in the Security Council on several occasions.

In that regard, we were taken aback by the Tribunal's negative reaction to the OIOS recommendations and by its refusal to implement them. We do not agree with the reference in the ICTY comments to the unique features of the Tribunal's mandate. The difficult tasks facing the Tribunal are no justification for breaking with generally agreed upon standards of justice, including those relating to reasonable time frames for legal proceedings. Paragraph 11 of resolution 2256 (2015) instructs the Tribunal to report on the implementation of the OIOS recommendations in its future reports. We urge the ICTY to study and implement the recommendations of that oversight body. We would like to see substantive reporting on the matter in the next ICTY report.

Our delegation will follow closely the proceedings of the Residual Mechanism to ensure that there are no further mishaps in its activities. At this stage we think that the report of the Mechanism is not fully in keeping with the requirements of paragraph 20 of resolution 2256 (2015). In particular, the report contains no information on the staffing structure of the Mechanism or any details about the workload and related expenditures. Forecasts about the length of legal proceedings are really just estimates, and there is no information about other residual functions.

It should be recalled that the Mechanism was set up as a temporary and streamlined body. The period for its work is not determined by the Mechanism, but by the Security Council. Extending the operation of the Mechanism is subject to the Council's review of its activities. We believe it would be appropriate to consider the OIOS conclusions during the next review, among other things.

Ms. Pedros Carretero (Spain) (*spoke in Spanish*): It is an honour once again to have with us the Presidents of the International Criminal Tribunal for the Former Yugoslavia and of the International Residual Mechanism and the Prosecutor for both bodies. I congratulate Judge Meron and Prosecutor Brammertz on their respective appointments. I would also like to take this opportunity to thank the Ambassador of Uruguay and his entire team for their outstanding work at the helm of the Informal Working Group on International Tribunals. I also thank Judge Agius and Prosecutor Brammertz for their detailed briefings on the work of the Tribunal over the past six months, which have included very notable progress.

The sentencing of Radovan Karadžić illustrates that it is possible to bring to justice those responsible for violations of international humanitarian law. As stated by the Government of Spain in a press release on that occasion, his sentencing was

> "a resolute response to condemnable acts rooted in violent, exclusionary nationalism".

It is noteworthy that the three sentences handed down in the reporting period took place in the time frame stipulated in the previous report. That is a positive sign that attests to the credibility of the Tribunal's commitment to abide by the December 2017 completion date. We note that the circumstances are not easy, but we urge the Tribunal and its personnel not to let up in their efforts. The Tribunal's proposals for addressing the ongoing loss of essential qualified personnel in this final stage should be duly considered. The support

of the United Nations and of the Security Council continues to be essential in order that the Tribunal can complete its mandate.

We cannot fail to express our concern about the decrease in cooperation with the Tribunal by the States of the former Yugoslavia, as well as about the insufficient number, pace and effectiveness that continue to characterize the trials under way at the national level. That is specifically the case with regard to cases of mid- and high-level accused. Once again, we agree with the Prosecutor that more can, and should be, done. We urge those Governments to take the necessary measures to that end.

Combating impunity is, and should be, a joint undertaking. As important as it might be, the work of the International Criminal Tribunal for the Former Yugoslavia cannot alone serve the goal of ensuring justice and accountability for those responsible for violations of international humanitarian law during the conflict in the former Yugoslavia. As the Tribunal's closing date approaches, therefore, it is more important than ever that national judicial systems take over in order to continue the effort carried out to date by the international community as a whole. That is an inescapable responsibility, both out of respect for the victims and as a legacy to future generations.

Serbia, which on many ocassions has cooperated with the Tribunal in its more than two decades of operation, should continue to do so and carry out the three arrest and surrender orders issued in January 2015. Respect for the rule of law at the national and international levels alike demands compliance with the Tribunal's decisions, including those with which one may disagree.

Just a few weeks from concluding its initial period of operations, the Residual Mechanism has consolidated itself as small, temporary and efficient structure, thereby meeting the Council's mandate. Its active cooperation with the Office of Internal Oversight Services is evidence of its determined commitment to a model of international criminal justice that is compatible with seeking efficiency while also ensuring due process guarantees for the accused. We hope that trend will continue as this new phase of intensive and important judicial activity gets under way.

We urge the Mechanism not to give up on its efforts to find the eight persons indicted by the International Criminal Tribunal for Rwanda whose whereabouts remain unknown. During the previous debate here in the Council (see S/PV.7574) we learned of the arrest of Mr. Ntaganzwa, whose handover to Rwanda is excellent news. However, it is not enough. We reiterate our call to States where fugitives may be found or that may have information as to their whereabouts to cooperate without delay in finding, arresting and immediately handing them over to the Mechanism or to Rwandan authorities. Every day they remain at large is a genuine affront to their victims.

In conclusion, I would like to reiterate Spain's firm commitment to international criminal justice and our resolute support for the International Criminal Tribunal for the Former Yugoslavia and for the Residual Mechanism. In the face of the impunity that prevails in the majority of today's conflicts, their work helps us to continue to have faith in justice. Their legacy goes beyond Rwanda and the former Yugoslavia. It is a vindication of the dignity of all victims in all conflicts. It is a source for hope that, in spite difficulties, justice is possible.

Mr. Yelchenko (Ukraine): I would like to warmly welcome Presidents Theodor Meron and Carmel Agius and Prosecutor Serge Brammertz. I thank them for their comprehensive briefings. Let me also express our support for their professional and dedicated service. I also wish to thank Ambassador Elbio Rosselli of Uruguay for his work as Chair of the Informal Working Group on International Tribunals.

When, in early 1990s, the Security Council created two ad hoc Tribunals to try alleged perpetrators of genocide, war crimes, crimes against humanity and other serious violations of international humanitarian law, they found themselves in largely unchartered waters. The Tribunals faced countless challenges, including the need to further develop international criminal jurisprudence, ensure compliance with international human rights standards to undergird legitimacy and credibility, address such issues as prosecuting senior officials and gathering evidence for crimes that had occurred hundreds, or even thousands, of miles away, and many others. Yet the achievements of the Tribunals in the fight against impunity and delivering justice to victims are remarkable. And we can say with confidence that they succeeded in accomplishing their mandates and in paving the way for a major change in the functioning of the international justice system.

We welcome the closure of the International Criminal Tribunal for Rwanda,on 31 December 2015, and the take over by the Residual Mechanism for International Criminal Tribunals of all its files. The International Criminal Tribunal for the Former Yugoslavia (ICTY) is also on its way to concluding its functions. We hail the tremendous work both institutions have accomplished and their invaluable contribution to the development of international criminal law.

We note with satisfaction the ICTY's significant progress in completing its work during the reporting period by delivering a number of judgments, including the recent conclusion of the trial of Radovan Karadzic. That decision is clear evidence that those violating principles of international humanitarian law will be brought to justice sooner or later.

The number of concluded proceedings by the ICTY — 151 out of 161 — is a confirmation of the efficiency of the Tribunal. Taking into account that by the end of June 2016 only two trials and one appeal case will remain pending, we would like express our gratitude to staff members of the Tribunal for their hard work and dedication. In this context, we are concerned over staff attrition, as noted by the President of the ICTY in his report (S/2016/454, annex), and acknowledge the efforts of the Tribunal to resolve this issue. This problem is expected to become acute as the Tribunal approaches the end of its mandate. We therefore encourage the Tribunal to maintain all measures to minimize the impact of this challenging situation on the ability to deliver justice. We support the efforts of the Tribunal to implement its completion strategy and follow a timeline to finish its judicial work by the end of 2017.

We recognize the importance of regional and State cooperation to ensure that those responsible for crimes are held accountable, and we support the activities of the Office of the Prosecutor in this regard. At the same time, we are concerned about the failure to execute arrest warrants and transfer three indictees to the Tribunal's custody, in violation of international obligations to cooperate with the Tribunal. The issue of regional cooperation, as well as existing challenges with respect to national prosecutions of war crimes, require special attention and monitoring by the Office of the Prosecutor.

As to the International Residual Mechanism for Criminal Tribunals, we note that it has assumed responsibility for a number of functions of the International Criminal Tribunal for Rwanda and the ICTY, including with regard to a range of judicial activities, the enforcement of sentences, the protection of victims and witnesses, and the management of archives. One of the main tasks now is to ensure the smooth transition of ICTY's remaining functions. We support the work of the Mechanism in taking measures to improve operations and working methods and to ensure flexibility in staff assignment. The establishment of the Tribunals was a huge step forward in the fight against impunity. Their knowledge and expertise should not be wasted but used in the handling of human rights crimes cases at the national and international levels. The Tribunals' archives should be widely accessible. The lessons of the Tribunals should also be used to increase the capacity of national courts.

Ms. Mulvein (United Kingdom): I thank the Presidents of the International Tribunal for the Former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals, and the Prosecutor of the ICTY and the International Criminal Tribunal for Rwanda (ICTR) for the reports and today's briefings.

At the outset, let me stress the United Kingdom's continued support for the efforts of the ICTY and the Mechanism. They carry out essential work to tackle impunity. Faced with so many crises today, it is absolutely crucial that we speak with one voice when we say that there can be no impunity for the most serious international crimes.

As the recent trial of Radovan Karadžić at the ICTY shows, there is no end date for justice. The United Kingdom welcomes the completion of a number of ICTY cases: the *Karadžić* and *Šešelj* trials and the *Stanišić and Simatović* appeal. We welcome the fact that these are in line with the lastest timetable set out by the Tribunal. We are also pleased to hear that the *Mladić* case and the *Prlić* appeal are still on track. We look forward to the outcome of the Hadžić case and the remaining ICTY appeal. While we understand that it may be a challenge to meet the projected time frame in the *Prlić* appeal in particular, we hope that the November 2017 date will be met in all cases.

We understand the challenges of staff attrition. Let me take this opportunity to emphasize that the work of the ICTY staff is vital and highly valued by the United Kingdom. We rely on them to see their roles through until the end of the mandate. We commend the efforts of the ICTY leadership to retain staff, which we know

will continue. We are also pleased that the transition of the ICTY to the Mechanism is on schedule.

We note the report of the Office of Internal Oversight Services (OIOS) on the ICTY (S/2016/441) and we look forward to the Trbunal's reponse in its next report. It is vital to take a pragmatic approach and ensure that resources are not diverted from completing the ICTY's core task — its case work.

In the aftermath of conflict, any international tribunal, including the ICTY, can only address the cases of most serious concern. That does not mean that other crimes should not be addressed. On the contrary, it is vital that national justice systems ensure accountability. In that context, we note the ongoing concerns of the Office of the Prosecutor with the pace and effectiveness of national war crimes prosecutions in Bosnia and Herzegovina. There are positive developments, such as the progress in resolving pending Category II cases, and we continue to believe that these challenges can be overcome. We urge the Government of Bosnia and Herzegovina to work with the ICTY and other partners to do so.

We are also concerned that national war crimes prosecutions in Serbia are at a crucial point, with many more cases still needing investigating and prosecuting in Serbia against Serbian nationals, particularly cases against senior and mid-level accused. Again, there have been important achievements by the Serbian War Crimes Prosecutor's Office. We urge the Serbian Government to support efforts to ensure accountability, and in particular to appoint a new Chief War Crimes Prosecutor as a priority for the incoming Government.

We also urge cooperation between all States of the region. We are pleased that cooperation with the Prosecutor is satisfactory in most respects, and we call on all States to act on those areas where it is not. We note the recent decision of the High Court in Belgrade regarding transfer of the three defendants in contempt proceedings arising from the *Šešelj* case. Serbia has an obligation to cooperate with the ICTY, and we hope that the Serbian authorities will make every effort to ensure transfer to the ICTY of the individuals concerned.

Turning to the International Residual Mechanism for Criminal Tribunals, we are very pleased with its work over the past six months and, indeed, since its commencement. The Mechanism is moving into a very important new phase in its life, dealing with retrials and appeals from ICTY rulings. We are confident that the Mechanism will take all appropriate measures to ensure that these cases are handled efficiently and effectively in order to see to it that decisions are taken within a reasonable and in respect for due process. We look forward to receiving further information on timelines in the next report. We welcome the news that the recruitment of staff for the Mechanism is proceeding well and that staff with ICTY and ICTR experience are being drawn upon. Again, good staff are key to success.

We thank the Prosecutor for the continued efforts to locate and arrest fugitives, and we welcome the arrest and handover to Rwanda of Ladislas Ntaganzwa. We hope that the remaining eight fugitives can similarly be brought to justice, and urge all States to cooperate to that end. We also welcome the work being undertaken by the Mechanism on reviewing the level of support provided to acquitted and released persons in order to achieve appropriate efficiencies, and we support ongoing efforts concerning relocation.

We are pleased with the smooth handover to the Mechanism of the ICTR's functions on its closure, and we thank the Government of the United Republic of Tanzania for its continued strong support and interest in the Mechanism's new permanent premises in Arusha. We are also pleased that the Mechanism has implemented some of the recommendations from the OIOS audit and is working on others. The Mechanism has a vital role to play in the international criminal justice system, and we have every confidence that it will continue to carry out its residual functions appropriately.

Mr. Pressman (United States of America): I would like to begin by welcoming the President of the International Tribunal for the Former Yugoslavia (ICTY), Judge Agius, and to welcome and congratulate both Judge Meron on his reappointment in March as President of the International Residual Mechanism for Criminal Tribunals and Prosecutor Brammertz, who has assumed the role of Chief Prosecutor of the Mechanism while continued to serve as Chief Prosecutor of the ICTY.

The International Criminal Tribunal for Rwanda (ICTR), the International Tribunal for the Former Yugoslavia and, now, the International Residual Mechanism for Criminal Tribunals have been and are essential components in advancing peace and justice in Rwanda and the former Yugoslavia, and in the development of international law. Most recently, in March this year, Radovan Karadžić, a person whom

Ambassador Power recently described as "a man who believed he could do what he wanted when he wanted, consequences to others be damned", was found guilty and sentenced to 40 years in prison for genocide, crimes against humanity and violations of the laws and customs of war. More specifically, the underlying crimes attributed to Karadžić included persecution, extermination, murder, deportation, forcible transfer, terror and unlawful attacks on civilians, among others.

While legalisms and legal definitions can never adequately convey the inhumanity what happened, what was experienced and what was done to human beings, the pursuit of sober justice and the obedience to facts inherent in the process is essential if we are ever to stop these crimes from occurring again. In the 1995 order confirming the Srebrenica indictment against Karadžić, Judge Riad wrote that events of Srebrenica were "truly scenes from hell written on the darkest pages of human history". There were, he wrote "thousands of men executed and buried in mass graves; hundreds of men buried alive; men and women mutilated and slaughtered; children killed before their mother's eyes; a grandfather forced to eat the liver of his own grandson".

The establishment of facts as part of the process of advancing justice is critical to counter those who seek to distort facts, revise history or rewrite reality. That genocide occurred in Srebrenica was firmly established by both the ICTY and the International Court of Justice. There is no fact-based debate; this is our history. These well-established facts render all the more sad and shameful the Council's failure to be able to adopt a simple resolution commemorating the twentieth anniversary of Srebrenica. The facts are well established, and, as one speaker said following the veto last year of a draft resolution recognizing these facts, denial is the final insult to the victims. Denial is of course dangerous, but the challenge posed by denial also highlights one of the most important contributions of international justice in the process of establishing the facts and identifying individual responsibility. It is that it helps us understand what happened, how it happened, who is responsible — facts that, hopefully, allow us learn how to prevent such events from happening again.

Although some leaders, including in other contexts today, understandably fear trials and accountability, justice and, indeed, peace require our zealous pursuit of them. The Karadžić conviction and the December arrest by Congolese authorities of Ladislas Ntaganzwa are an important reminder of the fact that although time may pass, this imperative will not subside.

It is to that end that we must remain persistent in our pursuit of the eight remaining fugitives indicted by the International Criminal Tribunal for Rwanda. The Mechanism needs to re-energize its efforts to apprehend these men, and the States Members of our Organization, especially in the Great Lakes region of Africa, must proactively contribute to our shared efforts to hold these men accountable.

The United States of America will continue to its part, and we reiterate our offer of up to $5 million in rewards for information leading to the arrest of Fulgence Kayishema, Charles Sikubwabo, Aloys Ndimbati, Augustin Bizimana, Charles Ryandikayo, Phénéas Munyarugarama, Félicien Kabuga and Protais Mpiranya.

The United States asks that President Meron and Prosecutor Brammertz make tracking and apprehending these remaining fugitives the primary focus of the Mechanism's work going forward. It has been too long.

Before concluding, I would like to commend the ICTY, under the solid leadership of President Agius, on the progress made in completing its work over the past reporting period and for ensuring that justice is served expeditiously while respecting the rights of the accused. The Tribunal has not completed almost all of its cases, with only two defendants remaining at the trial stage and two appeals ongoing. We have confidence that the ICTY can meet its commitment of completing its work by the end of 2017.

In this regard, and in the light of President Agius's briefing, the United States would like to reiterate the importance of the full cooperation of all States concerned with the ICTY, including with respect to the execution of the arrest warrants issued by the ICTY for three individuals in a contempt case.

We should be circumspect of leaders who suggest that justice comes at the expense of reconciliation or unity. Trials may be inconvenient to those who bear responsibility for grave crimes, be they Milošević or Karadžić, Akayesu or Nahimana. But as our experience here has demonstrated, it is simply not true that pursuing justice frustrates reconciliation or upsets unity. It does the opposite. The pursuit of justice is vital to understanding the events of the dark past, to proving facts and disproving fictions. That some leaders in other

contexts may prefer a course other than accountability suggests that they are interested in advancing objectives unrelated to our collective pursuit of sustainable peace.

Mr. Lucas (Angola): We welcome and thank Judges Carmel Agius and Theodor Meron and Prosecutor Serge Brammertz for their comprehensive briefings on the activities of the International Tribunal for the Former Yugoslavia (ICTY) and of the Residual Mechanism. We commend Uruguay on its steering of the work of the Informal Working Group on International Tribunals.

The need to end impunity and to hold to account the perpetrators of war crimes and crimes against humanity led the Security Council to establish the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (ICTR) in 1993 and 1994, respectively, with mandates to prosecute those persons responsible for crimes of genocide, war crimes and violations of international humanitarian law committed in the territory of the former Yugoslavia, Rwanda and neighbouring States.

We acknowledge the establishment of these two special international criminal Tribunals as one of the most relevant initiatives of the United Nations for the preservation of the rule of international law and the safeguarding of the principles of peace and justice.

In the two decades of their existence, the ICTY and the ICTR have played a crucial role in enhancing the international criminal justice system and providing tools to national and international justice mechanisms by ensuring that those responsible for serious crimes against humanity are brought to justice and held to account.

The ICTR was established pursuant to resolution 955 (1994) and closed by the end of 2015, following its verdict on the appeal of the Butare case. It received outstanding support and international cooperation from Member States and left an important legacy in manuals on best practices and lessons learned on the tracking and arresting of renegades from international justice, on indictments for sexual and gender-based violence, and on referrals of international criminal cases to national jurisdictions.

The ICTR also made a substantial contribution to national reconciliation, to the restoration of peace and security, to the fight against impunity and to the development of international criminal justice, especially by seeking justice for the victims and survivors of the 1994 genocide in Rwanda.

In ending its work, it is expected from the Residual Mechanism, according to resolution 1966 (2010), that it track the renegades indicted by the ICTR and contribute to the arrest of the remaining eight fugitives.

The successive delays in the completion of the ICTY's activities have been a source of some tension in the Security Council, since, in accordance with its relevant resolutions, the ICTY should have closed its cases in 2010 or at the latest by the end of 2014. We took good note of the efforts by the Tribunal to quickly complete its work and of the judges' efforts in identifying means to speed up the pending cases. We note the Tribunal's commitment in meeting the deadline for its closure by the end of 2017. The recent convictions of war criminals and its efforts in completing the transfer of duties to the Residual Mechanism, in accordance with the pertinent Security Council resolution, attests to such a commitment.

Challenges facing the ICTY in staff-related matters, which have been delaying trials, and other instances of attrition are matters of concern. We hope that such delays will not affect the ongoing trials and that the Tribunal's judicial work will be effectively completed by the end of 2017.

The establishment of the International Residual Mechanism for Criminal Tribunals, in accordance with resolution 1966 (2010), was essential in ensuring that the closure of the International Criminal Tribunal for Rwanda (ICTR) would not permit the remaining fugitives to escape justice. However, the Mechanism still faces fundamental challenges, namely, to ensure that the remaining individuals indicted by the ICTR are apprehended and that the humanitarian issue related to the 14 individuals acquitted and released by the ICTR but unable to return to their countries of origin is resolved.

In order for the International Residual Mechanism to continue fulfilling its mandate expeditiously, efficiently and cost-effectively, States are called upon to cooperate with the Mechanism and the Government of Rwanda for the arrest and prosecution of the eight remaining fugitives indicted by the ICTR. In that regard, we call on States to investigate, arrest, prosecute or extradite, in accordance with their applicable international obligations, all fugitives accused of genocide who are residing in their territories. The Mechanism's

ongoing practice of communicating and cooperating with countries of the former Yugoslavia and Rwanda and keeping the authorities updated on its activities and on the transition of responsibilities, as well as assistance to national jurisdictions, is worth noting and encouraging. We acknowledge that the Mechanism continues to draw upon ICTY and ICTR best practices and lessons learned in pursuing new ways to improve its operations, procedures and working methods and to maintain flexibility in its staff assignments. That is aimed at maximizing its effectiveness and efficiency.

In conclusion, we would like to point out that the tenets of international criminal justice, embodied in the criminal tribunals for the former Yugoslavia and Rwanda, were crucial to the recovery process following the appalling events that occurred in those territories. The establishment of those Tribunals, pursuant to Security Council decisions, was a response to the public uproar against the atrocities committed in the former Yugoslavia and Rwanda. They were instrumental in preserving trust in international law; to ensuring that those responsible for serious violations of human rights and international law faced trial and punishment; to ensuring that judicial mechanisms were put in place as a warning that such crimes would not be left unpunished; and to ensuring that justice was delivered to the victims when egregious crimes against humanity were still being committed on a disturbing scale.

Mr. Akahori (Japan): I would like to begin by thanking President Agius, President Meron and Prosecutor Brammertz for their briefings and their respective reports (S/2016/453, annex and S/2016/454, annex).

Japan is committed to the establishment of the rule of law and attaches great importance to the activities of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals. I would like to assure the Presidents and the Prosecutor of Japan's full support to the work of their bodies.

With regard to the work of the ICTY, we appreciate the efforts made by the Tribunal to deliver judgements on the *Karadžić* and *Šešelj* cases in March, as projected, despite serious staff attrition. We are also pleased to learn that the judgment on the *Stanišić* and *Simatović* case is likely to meet the envisaged June date. Let me commend the leadership of the Presidents and the Prosecutor for those actions, and I call upon them to keep the timeline of the judicial activity as projected, while respecting due process.

The Tribunal can fulfil its mandate only when it receives the necessary cooperation from Member States. We recall that Member States have the obligation to cooperate fully with the ICTY, and urge the relevant States to implement their obligations.

Turning to the Mechanism, resolution 1966 (2010) mandated the Mechanism as a small, temporary and effective judicial organ to take over the activity and legacy of the ICTY and the International Criminal Tribunal for Rwanda (ICTR). We are pleased to hear that the Mechanism has been trying to be as efficient as possible by implementing various innovative measures, such as the "one-office" approach in the Office of the Prosecutor, while ensuring smooth and sound judicial activities. However, we note with concern that the construction of the new permanent premises in Arusha is facing a slight delay. We hope the project will be completed by the end of this year and expect strong leadership by the President and the Registrar.

Like the ICTY, Member States have to cooperate fully with the Mechanism. In that respect, we are happy to learn that the United Nations and Mali signed an agreement on enforcement of sentences of imprisonment. We also welcome the cooperation by the Government of the Democratic Republic of the Congo in implementing resolution 2256 (2015) to transfer Mr. Ladislas Ntaganzwa to the Rwandan authorities. We look forward to more such examples in the future.

Before concluding, let me reiterate Japan's support for the activities of both the ICTY and the Mechanism. We hope that they will contribute further to the development of international criminal justice.

The President (*spoke in French*): I shall now make a statement in my national capacity.

I thank Presidents Meron and Agius and Prosecutor Brammertz for their respective reports (S/2016/453, annex and S/2016/454, annex) and briefings. France reiterates its thanks and affirms its support to all staff of the Tribunals for the work undertaken in order to successfully complete the judicial proceedings. We are all aware of the importance of everyone mobilizing. It is important to uphold the time frame set forth by the Security Council.

With regard to the International Criminal Tribunal for the former Yugoslavia, France takes note that at

this stage two cases remain in trial for two indictees and two in appeal. The Tribunal has therefore handed down sentences in 151 out of the 161 individuals brought before the ICTY. France attaches the greatest importance to the fact that, in the framework of the completion strategy, the Tribunal continues to serve justice, fully upholding due process, and it should be provided with all necessary cooperation. The ICTY has abided by the rules in the reporting period. France recalls that, pursuant to resolution 2256 (2015), the Security Council requested that the Tribunal conclude its work according to a set time frame, in the light of its closure, by handing over its activities to the Mechanism.

Over the reporting period and in line with resolution 2256 (2015), the Office of Internal Oversight Services carried out an assessment of the methods and work of the International Tribunal for the former Yugoslavia and submitted its report (S/26/441) on 1 June. France welcomes the Tribunal's cooperation in that exercise. The report underscores the high quality work of the Tribunal and its efforts in the completion strategy, in particular in the area of management, as well as necessary improvements made for better efficiency.

We also highlight the interest expressed by the Tribunal itself regarding the evaluation exercise, stating that it should be more far-reaching using the necessary means and in a manner suitable for a judicial institution. The evaluation approach is totally compatible with the idea of the independence of the judiciary and even ensures the sound administration of justice, which is itself an indispensable mark of the credibility of the international criminal justice. In that respect, pursuant to paragraph 11 of resolution 2256 (2015), France expects the Tribunal "to report on the implementation of the OIOS recommendations in its next six-monthly report". This is particularly the case regarding the implementation of part of a code of conduct and a disciplinary mechanism applying to judges, as well as a centralized information system on staff reductions. France would like to see this approach applied across the board and in a professional manner. In particular, I stress the recommendation of the Office of Internal Oversight Services that the decisions handed down and their proceedings be analysed so as to ensure progress in international criminal justice as a whole and to identify what merits being replicated and what should be done differently in the future. Such an evaluation by practitioners would further enrich the legacy of these jurisdictions.

The ICTY and International Criminal Tribunal for Rwanda (ICTR) branches of the Residual Mechanism have well begun the transition to ensure that the work of justice continues to run its course. We wish to emphasize the unique opportunity that the Mechanism affords for drawing on the experience of the two Tribunals and, in so doing, combining the best working methods. We recall the provisional nature of the Mechanism's mandate, which requires the adoption of a tailored management that duly accommodates the diversity of legal systems and balanced equitable geographical representation.

This debate is a time for the Council to welcome the major contribution of the Tribunals in the service of the fight against impunity, of reconciliation and of identifying the work that States must now do to ensure that this work of justice is maintained over time. The States concerned must henceforth continue the construction of the rule of law in which the independence of the judiciary must be fully ensured. The prosecution of criminals considered mid-level should remain a national priority and be the subject of enhanced cooperation and regional assistance.

France maintains its support of the Mechanism, including the arrest of fugitives targeted by arrest warrants issued by the Tribunal. Furthermore, I wish to indicate that the two cases referred to France by the ICTR are being handled with all the necessary diligence and rigor, under the supervision and in constant contact with the ICTR and the Residual Mechanism. In that regard, I recall that France is the only State, alongside Rwanda, that has accepted case transfers.

In conclusion, I thank the Ambassador of Uruguay, Chairman of the Informal Working Group on International Tribunals, and his entire team, the representatives of the International Tribunals, the Office of Legal Affairs and the Office of Internal Oversight Services for their efforts to implement the transitions pursuant to resolutions 1966 (2010) and 2193 (2014). More than ever, combating impunity should be at the core of the Council's actions, as justice is a prerequisite of lasting peace and security.

I now resume my functions as President of the Council.

I give the floor to the representative of Rwanda.

Mr. Nibishaka (Rwanda): At the outset, let me congratulate the delegation of France through you, Sir,

on assuming the presidency of the Security Council for the month of June. I also thank Judge Theodor Meron, Judge Carmel Agius and Chief Prosecutor Serge Brammertz for their respective briefings.

As we reflect on the milestone achieved last year with the closure of the International Criminal Tribunal for Rwanda (ICTR), it is with satisfaction that we recognize that the 93 individuals indicted for genocide by the ICTR were the primary masterminds of that crime, in addition to the national and local leaders who were beyond the reach of Rwandan justice, as they were international fugitives. The Tribunal represents an immense contribution to the jurisprudence of the crime of genocide and to post-genocide reconciliation and healing in Rwanda.

It is regrettable, however, that eight ICTR indicted fugitives, as well as other suspects on whom we have ample and undisputable evidence, remain at large. We reiterate our call on all Member States, especially those still harbouring fugitives responsible for genocide, to honour their moral and legal obligations to the Charter of the United Nations and the Convention on the Prevention and Punishment of the Crime of Genocide. There is no legal justification whatsoever for the fact that those individuals have neither been tried nor sent to where they can be tried. Our collective efforts should be focused on ensuring that every suspect must have his or her day in court at the International Residual Mechanism for Criminal Tribunals, in the countries where they now are or extradited and tried in Rwanda's specialized international crimes chamber of the High Court. Rwanda will not rest until each one of them has been tried. We owe that to the millions of victims and countless survivors. It is our hope that the Chief Prosecutor's clear commitment and willingness to engage fellow prosecutors in national capitals harbouring those fugitives will lead to eventual arrests, extraditions and trials.

We remain extremely concerned at the delays encountered in the investigations and proceedings in the case against Laurent Bucyibaruta. Equally important is the trial of Octavian Ngenzi and Tito Barahira in the Paris Criminal Court. It must be expedited and conducted in an impartial and independent atmosphere. In addition, we remain extremely concerned by last year's decision of the French prosecution to drop charges against Father Wenceslas Munyeshyaka, a decision that contradicts the nature and scale of the crimes committed in the light of available evidence. On our part, we continue to meet our obligation with regard to cases referred to Rwanda, including the recent conviction of Jean Uwinkindi for genocide and crimes against humanity.

Allow me to return to the issue of the ICTR archives, which is an important matter to the Government of Rwanda and its people. The ICTR archives are the most comprehensive account of the 1994 genocide against the Tutsi. It is our painful history — a piece of history that Rwandans will never stop demanding for relocation to Rwanda. The primary beneficiary should first and foremost be the people concerned as the sole proprietors of such history. We recognize that they are United Nations property, but there should be no ambiguity in our understanding of the matter. Those archives should be relocated to Rwanda upon the completion of the Mechanism's mandate. The presence of the ICTR archives in Rwanda would continue to be a reminder to Rwandans of what happened in our country and to preserve the country's historical records of that particularly catastrophic occurrence. It is of the utmost importance that we preserve them for future generations and that the archives act as a tribute to those who suffered.

In conclusion, let me also concur with the Chief Prosecutor on the danger of genocide ideology and denial. Such a danger, as we witnessed in 1994, is that the genocide does not occur in a vacuum but is planned and executed. It starts with an ideology and grows in phases. That is why, when we have men and women out there who still engage in genocide ideology, it calls on all of us to embody the responsibility to educate young generations and to fight anyattempts to further dehumanize the survivors. Equally, the fact that we have men and women out there who still engage in ethnic division and who use it as their only stepping stone for political relevance should serve as a call on all of us to collectively assume responsibility to do what it takes to uproot this evil through education, cooperation and legislation.

The President (*spoke in French*): I now give the floor to the representative of Serbia.

Mr. Obradović (Serbia): I thank you, Sir, for the opportunity to speak to the Council again. Before I proceed to address the important topic on the Council's agenda today, I would like to welcome our esteemed guests from The Hague, the Presidents and Prosecutor of the International Criminal Tribunal for

the former Yugoslavia (ICTY) and the Mechanism for International Criminal Tribunals. I thank them for their semi-annual reports.

Serbia remains firmly committed to cooperating with the ICTY, while the Serbian domestic judiciary continues to fight impunity for core international crimes perpetrated during the armed conflict in the former Yugoslavia. In the reporting period, my Government duly executed warrants of arrest against Mr. Jovica Stanišić and Mr. Franko Simatović, the two indictees acquitted by the Trial Chamber, whose first-instance judgment was quashed on appeal on 15 December 2015. These ICTY arrest warrants were the first to be executed, dating back to the time of the arrest, in 2011, of indictees Ratko Mladić and Goran Hadžić, who were also arrested by my country. Somehow this important information did not find its way into the Prosecutor's report.

Today, the ICTY completion strategy relies heavily on the cooperation of the Serbian Government, in particular in cases of provisional release. In the past six months, Serbian agencies were called upon to report to the ICTY, in some cases on a daily basis, on the compliance with the terms of their provisional release of indictees Goran Hadžić, Jovica Stanišić and Mr. Franko Simatović and of convicted individuals Radivoje Miletić and Drago Nikolić, who passed away while he was in Serbia. The terms and conditions of their provisional release were determined by the ICTY Judicial Chambers and sometimes included surveillance 24 hours a day. Serbia has a perfect record in carrying out the guarantees its Government provided for the process of provisional release. In addition, it has fully complied with its specific duty to report to the Appeals Chamber on the progress of the medical treatment of indictee Vojislav Šešelj during his provisional stay in Serbia.

The ICTY Prosecutor acknowledges in his report (S/2016/453, annex II) that he has free access to evidence located in Serbia, such as documents, archives and witnesses, while the same conditions, in accordance with the principle of equality of arms, are maintained for defence counsel. So far, Serbia has received 2,170 requests for assistance from the Office of the ICTY Prosecutor and 1,331 requests from various defence teams; no pending requests for assistance or disputes in that regard are recorded. These statistics are a telling illustration of the dedication of my country to the process of cooperation with the ICTY, and they stack up quite well against the records of the Prosecutor of the International Criminal Court, for instance. The efforts behind the statistics deserve full international recognition.

As suggested in my statement to the Council in December 2015 (see S/PV.7574), the Serbian Government has now adopted a national strategy on the prosecution of war crimes. The strategy is aimed at improving the efficiency of domestic war crimes proceedings and at promoting regional cooperation in this sensitive area. It reflects my Government's commitment to accountability for core international crimes, regardless of the national, ethnic or religious status of the perpetrator or the victim. For this and other reasons, Serbia rightly expects that all other countries of the former Yugoslavia share the same objectives and act in accordance with the principles of international humanitarian law.

In that context, let me recall that, since June 2015, I have drawn the attention of the Council to the fact that, in spite of the ICTY and International Court of Justice findings that murders, inhuman acts and cruel treatment were perpetrated against the civilians of Serb ethnicity during and after Operation Storm in 1995, Croatia has had only one final conviction for the war crime of murder committed in that operation. The representative of Croatia never contested my assertion. I also advised that the Croatian Government attempted to deprive Serbia of jurisdiction to investigate and prosecute the crimes perpetrated by Croatian nationals. At the meeting of the General Assembly (see A/70/PV.31) on the 2015 annual report of the ICTY (see A/70/226), I submitted that, in so doing, the Croatian Government sought to establish impunity for its citizens and, for some reason, there has been no reaction from the United Nations. Moreover, the judicial bodies of Croatia and Kosovo have ceased to cooperate in acceding to Serbia's requests for assistance in the meantime.

Notwithstanding this situation, the ICTY Prosecutor has now confirmed in his written report that the Croatian Government established impunity for its citizens. The relevant Croatian agencies have been instructed by decision of the Croatian Government of 3 June 2015

> "not to provide cooperation to foreign judiciaries in certain war crimes cases in which the indictment alleges that members of Croatian civilian and military bodies participated in a joint criminal

enterprise to commit international crimes or that the Croatian military participated in widespread and systematic attacks against civilian populations".

This information is alarming, and Serbia expects the Security Council to react adequately. Otherwise, our efforts will be ineffective, and justice will be denied or remain selective.

Serbia fully understands and shares the Prosecutor's concern about evident regression in regional cooperation and calls once again on the United Nations to find a way for strict and continuous international monitoring in the field. Accountability is a regional issue and national war-crimes prosecutors must cooperate faithfully in fighting impunity without political interference. The Serbian national strategy therefore envisages the convening of a regional conference in which all open issues of regional cooperation would be addressed and resolved.

Serbia also supports the view of the ICTY Prosecutor that the search for missing persons needs to be intensified. Notwithstanding that need, however, mention should also be made in this regard that, according to the official data of the International Commission on Missing Persons, more than 70 per cent of the 40,000 persons who went missing during the armed conflict in the former Yugoslavia have been accounted for. This ratio has not been equalled anywhere in the world, and no small credit for it is due to the efforts made by the country that I come from.

Admittedly, the Prosecutor's report before us is critical of some of Serbia's recent activities. I shall now briefly address that criticism.

An impression has been created, particularly in the region, that Serbia is somehow responsible for the recent acquittal of Vojislav Šešelj. That is not fair. The Serbian Government has been continually requested to fully respect the judgments of the ICTY, especially in the case of the acquittals of General Gotovina and other Croatian generals, despite the factual findings that murders and other serious violations were committed against Serb civilians in Operation Storm. The Serbian Government has also been asked not to comment on the judgments in the cases of Bosnian war commanders Naser Orić and Rasim Delić, whose superior responsibility for crimes of murder and torture in prison camps, including decapitation of Serbian soldiers by mujahideen units, could not be established. However, Naser Orić is now being tried by a Bosnian court on the basis of evidence of individual criminal liability provided by the Serbian War Crimes Prosecutor. We all should be well advised to watch developments in this case.

Respect for ICTY judgments was also requested following the acquittal of Kosovo Liberation Army commanders Ramush Haradinaj and Fatmir Limaj for crimes committed against Serbs. The Judges noted, however, that the Trial Chamber gained "a strong impression that the [Haradinaj] trial was being held in an atmosphere where witnesses felt unsafe". A new light has been shed on the ICTY failure to successfully prosecute the crimes committed by Kosovo and Metohija Albanians by the establishment of a new internationalized judicial mechanism to prosecute those crimes.

Serbia has been criticized also for not electing a new war crimes prosecutor. Indeed, the process of election did fail, but a new recruitment is under way. The election will be one of the priorities of the new Government, expected to be formed soon. In the meantime, the Serbian war crimes prosecution continues to be fully operational under the leadership of the First Deputy Prosecutor and eight indictments for war crimes against 15 individuals have been confirmed in Serbia in 2016.

Now, I will say a few words in explanation of the reported failure by Serbia to execute the warrants of arrest issued by the ICTY Trial Chamber in the case of contempt of court against three individuals. The arrest warrants were issued two months after the provisional release of the accused Vojislav Šešelj, the leader of an opposition political party, under the unprecedented conditions ordered for his stay in Serbia. Government agencies have been ordered to exercise no control over his behaviour and political conduct and, immediately upon his release, Mr. Šešelj began to create difficulties for the Government, in particular with respect to the bilateral relations of the country with its neighbours. The timing of the arrest of his close associates is indicative of the lack of regard for the political and social realities in Serbia.

In that context and acting faithfully upon the ICTY request, my Government made a necessary security analysis and decided that it could not execute the orders at the critical moment because of national security risks. It was of the opinion that there were serious and justifiable reasons to delay execution, especially because the investigation in this case lasted many years.

In such a case, the domestic law on cooperation with the ICTY provides for a possibility to raise an objection to the International Tribunal. On the other hand, the ICTY Rules of Procedure and Evidence provides for no reason to establish a moratorium on ministering the orders of the Tribunal. Therefore, while the Security Council can defer International Criminal Court proceedings for a period of 12 months by a resolution, such a procedural solution does not exist in cases before the ICTY; consequently, the Trial Chamber dismissed the arguments presented by Serbia.

Once again, let me point out that Serbia never asked the Tribunal for a waiver of its international obligations; it asked only for a postponement of an execution while the accused, Šešelj, was on provisional release, under circumstances that endangered the bilateral relations with countries of the region of former Yugoslavia. The postponement of the execution would not set an example; after all, we read in the annals of the Tribunal that Shefqet Kabashi appeared in the courtroom only in 2011, four years after a warrant of arrest for contempt of court had been issued against him in 2007. Meanwhile, the ICTY Presidents did not report to the Security Council the non-cooperation by the United States.

The Serbian Government did not want to protect the accused persons from criminal prosecution. As a compromise solution, a communication was made with the ICTY President to consider the possibility of referring the case to the domestic judiciary proprio motu, in accordance with ICTY Rule 11 bis. In the view of my Government, such a referral would be fully in accordance with resolution 1503 (2003) calling on the ICTY to concentrate on the trial of the most senior leaders suspected of being most responsible for crimes within its jurisdiction and to transfer cases involving those who may not bear that level of responsibility to competent national jurisdictions. On 5 February, however, the ICTY President informed the Serbian Government that contempt matters did not fall within the scope of cases that may be referred to the domestic courts of a State pursuant to 11 bis of the Rules. No particular explanation of such a precedent was provided.

My Government, however, was fully aware of the need to respect ICTY decisions and orders. For that reason, it decided to continue with the domestic case for arrest and transfer of the three accused to the ICTY and, pursuant to the law on cooperation with the ICTY, the Ministry of Justice conveyed the case file to the domestic court for further procedure. Yet, on 18 May, for the first time in the history of Serbia's cooperation, the High Court in Belgrade decided that the legal conditions for the executions of the Tribunal's warrants were not fulfilled in this case, because the law on cooperation stipulates that only the indictment for core statutory crimes, that is, grave breaches of the Geneva Conventions of 1949; violations of the laws or customs of war; genocide and crimes against humanity, provide a legal ground for the execution of ICTY arrest warrants, unlike an indictment for contempt of court.

Perhaps some more light would be shed on the reasoning of the Belgrade High Court if juxtaposed with the explanation given to the Tribunal by the Embassy of France in The Hague in its note verbale no. 1108 of 27 December 2011 in which it is said: "France has no judicial foundation at its disposal that would permit it to act on the request for the arrest of Ms. Florence Hartmann and her transfer to the Tribunal." The difference, though, is in the consequences: unlike on 13 October 2015 in the case of Serbia, President Meron did not report to the Security Council the failure of a Government to cooperate with the ICTY in arresting its citizen. Is it that the principle of the sovereign equality of all Member States assumes a different light once refracted through the prism of the ICTY?

Nevertheless, the decision of the Serbian court in no way precludes Serbia's determination to continue to cooperate with the ICTY in the most active manner so as to enable it to accomplish its mission. We must not be discouraged in our efforts to bring about reconciliation and cooperation and that includes through trying those responsible for crimes in domestic courts. The victims will not be forgotten and we must not allow the crimes to be repeated.

Instead of a conclusion, let me take this opportunity to commend all hardworking officials and the staff of the Tribunal and the Residual Mechanism for the relentless efforts they continue to invest, despite all the challenges. My personal cooperation with many of them over the past 15 years was my highest professional privilege. My thanks are also due to the Security Council for its continued monitoring of this important international issue.

The President (*spoke in French*): I give the floor to the representative of Croatia.

Mr. Drobnjak (Croatia): Allow me to welcome the Presidents of the International Tribunal for the Former Yugoslavia (ICTY) and the International

Residual Mechanism for Criminal Tribunals, Judges Agius and Meron, as well as the esteemed Prosecutor Brammertz. We thank them for today's briefings and reports and commend their continued efforts to ensure accountability for international crimes for which they will continue to have Croatia's full support.

Croatia welcomes the delivery of judgements in the appeal cases of Stanišić and Simatović and the trial case of Radovan Karadžić. Karadžić's rightful conviction, including for the genocide in Srebrenica, must serve future generations as a prime example of the devastating consequences of a genocidal, expansionist policy. Bearing in mind the fact that Karadžić himself participated in four joint criminal enterprises and that during most of the time under consideration he was the President of the Republika Srpska, as well as the Supreme Commander of its armed forces, his sentence does not entirely match the extreme gravity of the crimes committed, nor does it match when compared to some of the sentences given to his subordinates and co-perpetrators acting under his direct command in those crimes. Accordingly, we hope that the Appeals Chamber will carefully reconsider all factual and legal elements of the crimes attributed to Radovan Karadžić and appropriately assess his full responsibility.

On many occasions in this Chamber, we have reiterated the importance of the completion of the remaining ICTY trials. In that vein, we are deeply troubled with the developments in the case of *Goran Hadžić*. Hadžić is charged with 14 counts of crimes against humanity and violations of the laws or customs of war, with the purpose of the permanent forcible removal of Croatians and other non-Serbs in Croatia from a large part of Croatia, envisaged to become part of greater Serbia. Although initially declared fit to stand trial, with an expected verdict to come this fall, Hadžić's trial had been adjourned, and then suspended in 2015. More than a year ago, he was provisionally released due to his health. Regardless of the prosecution's attempts and motions for the continuation of the trial, the proceedings are now stayed indefinitely. And we just learned today that the trial in on the road to being terminated. It is difficult to understand the Trial Chambers' logic in this case after realizing that, during his provisional release, Hadžić had time enough, and seemed to be fit enough, to plan for his second marriage, on which the media repeatedly reported.

Igor Kacić was only 16 years old when, on 20 November 1991, he was taken from the Vukovar hospital and executed, together with 259 other civilians and prisoners. At that time, that was the largest single massacre in Europe since the Second World War. Igor Kacić's body was exhumed from a mass grave in 1996. He still had on him a little dolphin that he carved in a shelter during the three-month siege of his city, as well as a couple of toy cars. His life is lost forever, but we had hoped that at least justice would be served. Therefore, it is with deep regret that we come to realize today that Goran Hadžić, just like his superior and mentor Slobodan Milosević, will never be held accountable for Igor's stolen youth and the extinguished lives of many others.

We are deeply disappointed, dismayed and concerned with the first instance judgment in the *Šešelj* case. On this matter, the President of Croatia, Ms. Kolinda Grabar-Kitarović, wrote to this body to alert it to the judgment and its consequences. The judgment, issued by a majority only a week after the *Karadžić* decision, seems to totally ignore legal and factual findings previously established by the ICTY. We concur with the prosecution's assessment that the Trial Chamber erred both in law and in fact, and expect that the appeal trial will bring long-awaited justice for Seselj's victims. At this point, allow me to quote the dissenting opinion of Judge Lattanzi, who stated that in reading the judgment she felt

> "thrown back in time to a period in human history, centuries ago, when one said [...] *silent enim leges inter arma*".

Today we cannot allow the law to fall silent in times of war and its aftermath.

We remain deeply concerned about Serbia's continued failure to fully cooperate with the Tribunal and execute the Tribunal's arrest warrants for three Serbian indictees. We call again upon our neighbour to comply with the Tribunal's requests without any further delay, and we remind it that full cooperation with the ICTY is an international obligation and an essential political condition — as part of political criteria for the countries of the Stabilization and Association Process — and legal condition — as part of the Stabilization and Association Agreement between Serbia and the European Union — throughout the accession process of Serbia to the European Union.

Croatia also shares the grave concerns of the Office of the Prosecutor about the participation of Tribunal-convicted war criminals in election campaigns

during the reporting period, where convicted persons appeared at campaign events for Serbian political parties or on public television. As recently as 9 May, Veselin Sljivancanin, the war criminal convicted for the Vukovar hospital massacre, was a guest at the official military parade commemorating Serbian armed forces and, paradoxically, the liberation of Europe. It is a gruesome predicament that it was precisely Sljivancanin who in 1991 pointed out Igor Kacić, the boy with the little dolphin, separated him from his mother and sent him to a horrific death together with hundreds of others.

Convicted war criminals have no place on ceremonial stages or in public life. They belong on the margins of society and civilization as an example and eternal reminder of failed policies that led to unspeakable atrocities. We have to prevent the demons of the past and their toxic ideology from shaping our present or our future. Generations to come and history will be unforgiving of our failure to do so. Croatia stands ready to cooperate with its neighbours and assist them in overcoming the remaining obstacles in facing the past as a precondition for lasting peace and meaningful reconciliation.

I will repeat what I have stated on previous occasions in the context of prolonged proceedings by expressing our hope that in the case of *Prlić et al.*, the Tribunal will find ways not to prolong this complex case, keeping in mind the targeted completion strategy.

With their contribution to international criminal justice, the ICTY and the Mechanism, albeit being temporal institutions, will undoubtedly leave behind a permanent legacy. Their work is not over, as thousands of victims and their loved ones are still waiting for justice to be served and historical truth to be established. On our part, we will continue to render our support and assistance to them in completing their work.

Finally, the fact that I will not comment in any way on Serbia's comments today in no way implies that Croatia agrees with them.

The President (*spoke in French*): I now give the floor to the representative of Bosnia and Herzegovina.

Mr. Vukašinović (Bosnia and Herzegovina): We also thank the leadership of the ICTY and the International Residual Mechanism for Criminal Tribunals for their respective reports and today's detailed briefing on the progress of legal proceedings, completion strategy implementation and the transfer of the Tribunal's functions to the Mechanism. We also take note of the report (S/2016/441) of the Office of Internal Oversight Services and the observations and recommendations contained therein.

The achievements of the International Criminal Tribunals have been an invaluable contribution to the development of international criminal law and justice in the past two decades. They stood at the forefront of the fight against impunity, bringing to justice many of those responsible for serious crimes against humanity and playing a crucial role in promoting the rule of law at both the international and national levels. Their legacy is important for the future of international criminal justice.

With the Mechanism having taken over all of the remaining functions of the International Criminal Tribunal for Rwanda as of 1 January, and a date foreseen for the closure of the International Criminal Tribunal for the Former Yugoslvia (ICTY) now in 2017, we are mindful that the important work of the ICTY is yet to be completed. We encourage the Tribunal to complete its work expeditiously by the targeted date. We acknowledge the judges' efforts in identifying further measures to expedite the pending cases, as well as overall efforts to ensure the smooth transfer of functions to the Residual Mechanism in accordance with resolution 1966 (2010).

Bosnia and Herzegovina remains dedicated to the fight against impunity. Our full and steady cooperation with the ICTY throughout the years reflects that dedication and will continue with the Mechanism. We are pleased to see that the Mechanism is in full command of its designated operations. We trust that it will continue to effectively carry out its work. Fighting impunity at the domestic level is a prerequisite for achieving national reconciliation and long-term stability in a country and the region. The completion of the ICTY mandate does not mean the end of the fight against impunity in my country. We remain committed to strengthening the national justice system at all levels in order to bring to justice persons responsible for atrocity crimes. Our national war crimes strategy has improved the consistency of judicial practices throughout the entire country at all levels, thereby ensuring the protection and support of victims and witnesses.

The implementation of a national strategy for processing war crimes, regardless of the national or

religious origin of the perpetrators and victims, is of crucial importance to a complex, multinational State. During the reporting period, efficiency in war crimes cases prosecutions at all levels steadily increased and, as noted in the Prosecutor's assessments, further progress has been made by the Prosecutor's Office of Bosnia and Herzegovina in resolving outstanding category 2 cases and in issuing important indictments. However, as of 1 January there are 335 cases pending in the Prosecutor's Office of Bosnia and Herzegovina.

The implementation of the national war crimes strategy has also played an important role in post-conflict reconciliation in Bosnia and Herzegovina. We welcome the support of the European Union in the implementation of the strategy and the support of the Organization for Security and Cooperation in Europe and the United Nations Development Programme, particularly in connection with witness protection activities and providing appropriate assistance and support to victims. In September 2015, the Council of Ministers of Bosnia and Herzegovina adopted a justice sector reform strategy for the period 2014 to 2018. The strategy will contribute to the long-term reinforcement of the rule of law and further consolidate the judicial system, including measures to improve judicial independence and efficiency.

As noted by the ICTY Prosecutor, regional cooperation has significantly advanced over the past decade through the dedicated efforts of judicial officials, but more political will and support is now needed to make accountability a regional issue and advance solutions to current challenges. Bosnia and Herzegovina remains committed to the promotion of stronger and more coordinated regional cooperation, and the best possible continuation of the work of the Tribunal and preservation of its legacy. In our joint efforts in delivering justice for numerous victims of our region lies the true strength of reconciliation.

The successful completion of the Tribunals' mandates will mark the end of one historic chapter, changing the landscape of international criminal justice forever. But our work in fighting impunity does not stop there; we must reconfirm our strongest commitment to accountability and the advancement of justice, and deliver on that commitment without selectivity or hesitation. That is the best possible tribute to the groundbreaking achievements of those two institutions.

The meeting rose at 1 p.m.